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U.S. House of Representatives
Committee on Standards of Official Conduct
Suite HT-2, U.S. Capitol
Washington, DC 20515

April 17, 1989

Attached is a Statement of the Committee on Standards of Official Conduct In the Matter of Representative James C. Wright, Jr. The Statement was unanimously approved by the Committee on April 13, 1989, and emanates from the six-count Preliminary Inquiry Resolution adopted by the Committee on June 9, 1988.

The document includes a Statement of Alleged Violation which has been delivered to Speaker Wright. A Statement of Alleged Violation is the name given by the Committee's rules to charges filed on completion of a Preliminary Inquiry. It signals the commencement of an adjudicatory proceeding where the Committee will determine whether the facts of each alleged violation have been proved by clear and convincing evidence. At this point, the Committee has only determined that there is reason to believe that violations occurred.

The attached Statement also includes a discussion of matters raised during the Preliminary Inquiry which were not pursued by the Committee. Such a discussion is intended to demonstrate that all matters, including those not pursued, were the subject of full Committee consideration.

Julian C. Dixon
Chairman

John T. Myers
Ranking Minority Member

Attachment

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STATEMENT OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT IN THE MATTER OF REPRESENTATIVE JAMES C. WRIGHT, JR.

April 13, 1989

Background: The Preliminary Inquiry, Procedural Matters, and Precedents

On June 9, 1988, the Committee on Standards of Official Conduct voted to undertake a Preliminary Inquiry into certain assertions of improper conduct raised against House Speaker James C. Wright, Jr. The Resolution of Preliminary Inquiry indicated the Committee's decision to ascertain whether Representative Wright committed violations of the Code of Official Conduct, or a law, rule, regulation or other standard of conduct involving--

1. The circumstances surrounding lobbying efforts on behalf of a constituent with whom he had an interest in a private gas well venture;

2. The circumstances surrounding intervention in a matter before the Department of the Interior on behalf of Texas Oil & Gas Company;

3. Whether campaign funds were used, directly or indirectly, to pay for publication of a book from which he received a 55-percent royalty;

4. Whether government resources were improperly used to complete work on a book from which he received royalties;

5. The use of a condominium in Fort Worth, Texas; and

6. The possible exercise of undue influence in dealing with officials of the Federal Home Loan Bank Board.

On July 26, 1988, the Committee appointed a Special Outside Counsel (hereinafter also referred to as "Counsel"), Richard J. Phelan, to conduct the Preliminary Inquiry. The appointment was made to assure that the investigation would not be subject to claims that the matter was not handled in a fair and objective manner. In addition, the Committee received sworn testimony from Representative Wright on September 14, 1988, regarding the areas under investigation. At the time of his appearance, Representative Wright, who was accompanied by his counsel, also responded to questions asked by Members of the Committee. Because the Committee did not complete the Preliminary Inquiry prior to the end of the 100th Congress, the investigation was reauthorized for completion by the Committee at its first meeting of the 101st Congress on January 4, 1989.

During the course of the Preliminary Inquiry, the Special Outside Counsel and his staff obtained the sworn testimony of over 70 witnesses and examined thousands of documents. Based upon the information obtained, Mr. Phelan submitted a Report to the Committee on February 21, 1989, containing Counsel's legal and factual findings.

Subsequent to submission of the Special Outside Counsel's Report, the Committee began a three-phase decisionmaking process. First, the Committee committed one full week, which was designated as a "reading period" to allow all Committee Members to read Counsel's Report and supporting materials. In the second phase, the Committee received an extensive oral presentation by the Special Outside Counsel and his staff and then by counsel for

Representative Wright, who were accorded an opportunity to hear and respond to the Special Outside Counsel's presentation. During the second phase, questions were asked of both counsel in order to obtain the greatest perspective on the matters addressed during the Preliminary Inquiry as well as to put to rest any concern that Representative Wright had been denied a full and fair opportunity to respond to the Special Outside Counsel's findings, particularly where improper conduct was believed possibly to have occurred. Immediately upon the conclusion of the oral presentations, the Committee commenced phase three, deliberations on the matters it had received.

The Committee has completed its three-phase review process and is today announcing the decisions made in the matter of the Preliminary Inquiry regarding Representative Wright.

First, at the beginning of its deliberations, the Committee decided that it would release the complete text of the Report of the Special Outside Counsel simultaneous with any Statement of Alleged Violation if such a Statement was to be issued in connection with the subject case. Under Rule 11(b) of the Committee's Rules of Procedure, a Statement of Alleged Violation may be issued if the Committee determines there is "reason to believe that the violation occurred." Should such an alleged violation become the subject of a disciplinary hearing, under Rule 16(e), the Committee staff has the burden of proof to establish "clearly and convincingly by the evidence" that fact of a violation. Second, the Committee decided that, in the event it determined not to take action on matters addressed in the Special

Outside Counsel's Report, it would make public its views on why no further action was being taken in order to avoid any claim that a matter not pursued was "ignored" as opposed to having been the subject of full Committee consideration.

As a matter of historical precedent, where an outside counsel has provided assistance to the Committee, there generally has not been released a separate counsel's work product except on certain limited occasions. Instead, an outside counsel's investigatory findings have been incorporated as part of a report filed by the Committee either disposing of the matter or recommending Floor action. Thus, even in those situations where an outside counsel has been used, the Committee's practice has been to utilize such assistance and incorporate the findings of such an outside organization as though the matter was handled by the staff of the Committee.

There have only been a few instances since the establishment of the Committee where it has approved the release of counsel-prepared documents (either by Committee counsel or an outside counsel to the Committee) separate and apart from a Committee report on the matter. Specifically, in two recent actions after criminal convictions -- those involving the cases of Representatives George Hansen and Mario Biaggi -- the Committee by resolution authorized the release of such counsel's report which led to the Committee's decision to proceed to a sanction hearing.

There is only one case since the Committee's establishment analogous to the Preliminary Inquiry regarding Representative

Wright. That case involved the so-called "Sex and Drugs" investigation, which was handled by Special Counsel Joseph A. Califano, Jr. In that one instance, the Special Counsel's report was released in its entirety in July, 1973, simultaneous with the Committee's report recommending that sanctions be imposed on two Members of the House. See, H. Rept. 98-297 at p. 5. However, this one and only precedent of the Committee is clearly distinct from the subject matter involving Representative Wright. Specifically, in the earlier sex and drugs investigation, the Members involved waived their rights to a Statement of Alleged Violation, disciplinary and sanction hearings, and agreed that the Committee immediately bring the matter to the Floor for full consideration of the House. See, H. Rept. 98-297, at p. 3. Thus, while Special Counsel Califano's report was released in its entirety at the time the Committee brought the matter to the Floor, the circumstances of such release was in the context of the Members involved having waived their procedural rights to a Statement of Alleged Violation and the other steps in the Committee's deliberative process. Consequently, there is no precedent that the Committee has delayed release of an outside counsel's report until after full procedural disposition of the matter. Moreover, there is also no precedent that the Committee has either restricted the release of only those portions of an outside counsel's report relevant to the action taken by the Committee or that such a limited release occurred only after the Committee went through the full Preliminary Inquiry, issuance of a Statement of Alleged Violation, as well as the disciplinary

hearing and sanction hearing process.

In light of the above, the decision to release the full text of Special Outside Counsel Phelan's Report neither conflicts with prior Committee precedent nor represents an action at odds with the Committee's Rules of Procedure or House Rules.

Regarding the Committee's Rules of Procedure, Committee Rules 6(b)(1) and 11(b) clearly give the Committee both the flexibility and the authority to release in conjunction with a Statement of Alleged Violation all materials deemed relevant to a matter under investigation. It is the Committee's view that the Counsel's Report in the subject case is clearly relevant to those issues which are the subject of a Statement of Alleged Violation, whether it be the findings of the Special Outside Counsel upon which the Statement of Alleged Violation is based, or those findings on which the Committee has determined not to take further action. Finally, while there is no requirement that a counsel's report be made public, there is nothing in either House or Committee Rules preventing such action should the Committee vote to do so.

Pursuant to the decisions described above, the Committee is releasing today Special Outside Counsel's Report, a five-count Statement of Alleged Violation to Representative Wright, (discussed infra.) and its explanation regarding those matters on which the Committee has determined not to take further action.

Insofar as those matters where a Statement of Alleged Violation has been issued, the Committee's Rules of Procedure state that "[i]f the Committee determines on the basis of the

report of the Committee staff . . . that there is reason to believe that the violation occurred, the Committee may direct the staff to transmit to the respondent a Statement of Alleged Violation. (Committee Rule 11(b) emphasis added.) In this light, the Committee emphasizes that the fact that a Statement of Alleged Violation has been issued to Representative Wright should not be construed to represent its position that, in fact, the violations actually occurred. Such a finding can only occur after a disciplinary hearing on such matters is held and, on the basis of the evidence presented, the Committee determines that the violations have been proved clearly and convincingly. See, Committee Rule 16(e). Thus, the Statement of Alleged Violation incorporated herein only represents those matters on which the Committee has determined that there is a reason to believe improper conduct has occurred, as opposed to an actual finding that there was improper conduct.

Relevant Standards of Conduct

At all times relevant to the violations hereafter alleged, the pertinent provisions of 2 U.S.C. 441i, House Rule XLIII, clause 4, House Rule XLIV, and House Rule XLVII stated as follows:

2 U.S.C. §441i

> (a) No person while an elected or appointed officer or employee of any branch of the Federal Government shall accept any honorarium of more than $2,000 (excluding amounts accepted for actual travel and subsistence expenses for such person and his spouse or an aide to such person, and excluding amounts paid or incurred for any agents' fees or commissions) for any appearance, speech, or article.

(b) Any honorarium, or any part thereof, paid by or on behalf of an elected or appointed officer or employee of any branch of the Federal Government to a charitable organization shall be deemed not to be accepted for the purposes of this section.

(c) For purposes of determining the aggregate amount of honorariums received by a person during any calendar year, amounts returned to the person paying an honorarium before the close of the calendar year in which it was received shall be disregarded.

(d) For purposes of paragraph (2) of subsection (a) of this section, an honorarium shall be treated as accepted only in the year in which that honorarium is received.

[As amended Pub. L. 98-63, section 908(g), July 30, 1983, 97 Stat. 338].

House Rule XLIII, clause 4

A Member, officer, or employee of the House of Representatives shall not accept gifts (other than personal hospitality of an individual or with a fair market value of $50* or less) in any calendar year aggregating $100 or more in value, directly or indirectly, from any person (other than from a relative of his) having a direct interest in legislation before the Congress or who is a foreign national (or agent of a foreign national). Any person registered under the Federal Regulation of Lobbying Act of 1946 (or any successor statute), any officer or director of such registered person, and any person retained by such registered person for the purpose of influencing legislation before the Congress shall be deemed to have a direct interest in legislation before the Congress.

House Rule XLIV

1. A copy of each report filed with the Clerk under title I of the Ethics in Government Act of 1978 shall be sent by the Clerk within the seven-day period beginning the date on which the report is filed to the Committee on Standards of Official

* This threshold for aggregation was $35 until the 100th Congress, 1st Session, with the adoption of H. Res. 5 on January 6, 1987.

Conduct. By July 1 of each year, the Clerk shall compile all such reports sent to him by Members within the period beginning on January 1 and ending on May 15 of each year and have them printed as a House document, which document shall be made available to the public.

2. For the purposes of this rule, the provisions of title I of the Ethics in Government Act of 1978 shall be deemed to be a rule of the House as it pertains to Members, officers, and employees of the House of Representatives.

House Rule XLVII

1.(a) Except as provided by paragraph (b), no Member may, in any calendar year beginning after December 31, 1978, have outside earned income attributable to such calendar year which is in excess of 30 per centum of the aggregate salary as a Member paid to the Member during such calendar year.

(b) In the case of any individual who becomes a Member during any calendar year beginning after December 31, 1978, such Member may not have outside earned income attributable to the portion of that calendar year which occurs after such individual becomes a Member which is in excess of 30 per centum of the aggregate salary as a Member paid to the Member during such calendar year.

2. For purposes of clause 1, honoraria shall be attributable to the calendar year in which payment is received.

3. For the purposes of this rule--

(a) The term "Member" means any Member of the House of Representatives, a Delegate to the House of Representatives, or the Resident Commissioner in the House of Representatives.

(b) the term "honorarium" means a payment of money or any thing of value to a Member for an appearance, speech, or article, by the Member; but there shall not be taken into account for purposes of this paragraph any actual and necessary travel expenses incurred by the Member to the extent that such travel expenses are paid or reimbursed by any other person, and the amount otherwise determined shall be reduced by the amount of any such expenses to the extent that they are not paid or reimbursed.

(c) The term "travel expenses" means, with respect to a Member, the cost of transportation, and the cost of lodging and meals while away from his residence or the greater Washington, District of Columbia, metropolitan area.

(d) The term "outside earned income" means, with respect to a Member, wages, salaries, professional fees, honorariums, and other amounts (other than copyright royalties) received or to be received as compensation for personal services actually rendered but does not include--

(1) the salary of such Member as a Member;

(2) any compensation derived by such Member for personal services actually rendered prior to the effective date of this rule or becoming such a Member, whichever occurs later;

(3) any amount paid by, or on behalf of, a Member to a tax-qualified pension, profit-sharing, or stock bonus plan and received by such Member for such a plan; and

(4) in the case of a Member engaged in a trade or business in which the Member or his family holds a controlling interest and in which both personal services and capital are income-producing factors, any amount received by such Member so long as the personal services actually rendered by the Member in the trade or business do not generate a significant amount of income.

Outside earned income shall be determined without regard to any community property law.

The discussion that follows is presented in the order in which specific areas of investigation were identified in the Committee's June 9, 1988, Resolution of Preliminary Inquiry. As appropriate, the discussion will either explain why the Committee determined no further action should be taken or why a Statement of Alleged Violation is being issued, along with the complete text of the Statement of Alleged Violation. In this regard, the

Committee emphasizes that while the following discussion presents those actions taken, it is not intended either to set forth all of the facts or information obtained by the Special Outside Counsel or to be viewed as a substitute for the detailed analysis contained in Counsel's February 21, 1989, Report.

Individuals desirous of all relevant facts should consult the Counsel's Report which is being made publicly available with this Committee Statement.

I.

COMMITTEE ACTION TAKEN IN CONNECTION WITH ITEM NO. 1 OF THE RESOLUTION OF PRELIMINARY INQUIRY

The first area addressed in the Preliminary Inquiry concerns:

> The circumstances surrounding lobbying efforts on behalf of a constituent with whom he [Representative Wright] had an interest in a private gas well venture.

Special Outside Counsel reported that, beginning in late 1978, Representative Wright intervened with the U. S. Department of State and the Egyptian government on behalf of the Neptune Oil Company (Neptune) in order to secure for Neptune an opportunity to resolve a dispute with Egypt over the right to explore, develop, and operate off-shore oil fields in the Gulf of Suez. Neptune had a contract with the State of Israel to explore and develop the Israeli-occupied territory. However, as a result of the Camp David accords in September of 1978 and the subsequent peace treaty negotiations, Israel was required to return the occupied Sinai and Gulf of Suez territory to Egypt, relinquishing

all rights to the oil fields without compensation. Egypt would not recognize Neptune's rights under the Israeli contract. Thus Neptune stood to lose its investment and expected profit from the operation of the oil fields.

Representative Wright introduced Richard Moncrief and other Neptune principals to State Department officials, contacted Secretary of State Cyrus Vance and Egyptian Ambassador Ashraf Ghorbal, and personally delivered a letter dated March 27, 1979, to Egyptian President Anwar Al-Sadat while he was in Washington seeking President Sadat's consideration of Neptune's plight. In Counsel's view, Representative Wright's intervention on behalf of Neptune Oil did not in itself appear to have violated any law or ethical standard.

During the period Representative Wright intervened on Neptune's behalf, he also accepted the opportunity to purchase a percentage of the Moncrief family's interest in two east-Texas gas wells offered by W. A. "Monty" Moncrief, the late patriarch of the Moncrief family who was for many years active in Washington, D.C., as a lobbyist for the Independent Petroleum Association. The first opportunity, the Whatley Well No. 1, located in Freestone County, Texas, appears to have been an ordinary, business transaction. For example, Representative Wright received a written offer dated February 22, 1979, to participate in drilling the proposed well; accepted the offer by written commitment dated February 26, 1979, to pay his share of all drilling costs; obtained financing from a bank ($20,000 on June 26, 1979, from the Continental National Bank, Ft. Worth,

Texas) to pay for his drilling costs; and actually paid those costs all prior to the time gas was discovered in the well on July 11, 1979. The record establishes that Representative Wright risked the amount of his share of the drilling costs against the chance that the well would be dry. Had the well been dry, Representative Wright's investment would have been lost.

Once gas was discovered in the Whatley well, although it was commercially productive, it was clear that production and, therefore, profit from the well, would be substantially less than had been anticipated. Consequently, in 1984, at a time when the Whatley well was "shut in," i.e., had temporarily ceased production, Representative Wright asked Monty Moncrief to buy back his interest in the well. Representative Wright was, at the time, receiving no income from the well, and consequently he made no payments on his loan from Continental National Bank. The Bank's Chairman stated that under those circumstances he would have required other arrangements for repayment of the nearly $20,000 outstanding balance.

Monty Moncrief agreed to buy back Representative Wright's Whatley interest for $20,000. While Moncrief's repurchase of Representative Wright's interest in the Whatley well appears to have been a favor to Representative Wright, it also appears to have been purchased at about the market value of the interest. Therefore, Counsel concluded that there was no gift to Representative Wright.

The Committee concurred with Counsel's findings. Accordingly, Item No. 1 in the Committee's Resolution of

Preliminary Inquiry, to the extent that it was predicated on Representative Wright's interest in the Whatley well, does not warrant further action by the Committee. (The Committee also notes that it is apparent that the questions raised concerning the matter discussed above as well as those regarding item number 2 in the Committee's Preliminary Inquiry, detailed infra., apparently were the result of an inadvertent error on Representative Wright's 1979 Financial Disclosure Statement. In that document the congressman incorrectly identified his interest in the Whatley well as a holding in "Texas Oil & Gas, Inc." Special Outside Counsel pointed out this oversight in his February 21, 1989, Report.)

However, in the course of pursuing the circumstances surrounding Representative Wright's interest in the Whatley well, the Special Outside Counsel identified a second well in which Representative Wright had an interest which, in Counsel's view, raised a question of improper conduct. This matter concerned Representative Wright's acquisition of an interest in the L. D. Williams No. 1 well.

Counsel reported that during calendar year 1979, Representative Wright acquired an interest in the L. D. Williams No. 1 well, the opportunity to invest in such well also having been afforded to him by the late W. A. "Monty" Moncrief, an individual having a direct interest in legislation. Representative Wright purchased his interest by check dated October 11, 1979, in response to a bill from the Moncriefs dated August 20, 1979, for $29,036.91 (with approximately $50,000

having been paid in total) -- the pre-drilling completion cost to invest -- but after the well had been drilled and determined to be a successful venture on June 27, 1979. Since, at the time of his purchase, Representative Wright's share was valued at approximately $132,000-140,000, Counsel believed the congressman received a gift of approximately $82,000-90,000 from Mr. Moncrief in reduced purchase cost. Moreover, during the period immediately prior to when Representative Wright acquired this interest, Counsel noted he had actively intervened on behalf of the Moncrief family with respect to capital investments the family had in the Sinai Peninsula.

In Counsel's view, Representative Wright's actions on behalf of the Moncrief family at a time when he acquired an interest in the L. D. Williams No. 1 well below its fair market value, represented a violation of Consideration No. 5 of the Code of Ethics for Government Service, which states, in part, that any person in Government service should "never accept for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties." The Special Outside Counsel also indicated that such a violation also represents action which does not reflect creditably on the House of Representatives in violation of House Rule XLIII, clause 1.

Finally, because Representative Wright did not report as a gift the below-market purchase of his L. D. Williams No. 1 well interest on his Financial Disclosure Statement for calendar year 1979, coupled with the fact that this gift was worth more than

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$100, Counsel believed that Representative Wright violated House Rule XLIV -- reporting receipt of gift, and House Rule XLIII, clause 4, which imposes a limit of $100 on gifts received from persons having a direct interest in legislation.

The Committee did not concur with the Special Outside Counsel. This conclusion rested on five grounds. First, the absence of any formal communication between Representative Wright and Monty Moncrief or the Moncrief oil organization indicating the congressman's commitment to acquire an interest in the L. D. Williams No. 1 well did not, in and of itself, support a conclusion that there had been no agreement for Representative Wright to acquire his interest prior to the successful completion of the well in June, 1979. In this connection, the Committee believes it is reasonable to infer that, Representative Wright established his good faith in entering into a business transaction with the Moncriefs in connection with the Whatley well.

Second, it appears that Representative Wright's transaction with the Moncriefs was handled no differently than the purchase of an interest in the same well by Monty Moncrief's grandchildren. Specifically, the Moncrief grandchildren also purchased their interest in the well, through a trust agreement, <u>at the same time</u> Representative Wright acquired his interest. All of these transactions occurred <u>subsequent</u> to the successful completion of the well.

Third, Representative Wright's October 4, 1979, loan transaction with Continental National Bank to obtain the funds

($35,000) required to defray the cost of his acquisition in the well occurred a short time after his receipt of a bill from the Moncriefs for his share of drilling costs. In this regard, the Committee believes it is reasonable that the congressman delayed his loan transaction to avoid paying interest on the funds until there was a need for him to meet his financial obligations arising out of the purchase. And, regarding the timing of the $35,000, loan, it was significant that in the case of the Whatley purchase, Representative Wright also acquired the funds from Continental National Bank ($20,000) to cover his cost of acquisition on June 26, 1979, after a bill for his proportionate share of participation was generated on June 15, 1979. Thus, both loan transactions occurred in similar time-frames relevant to the congressman's receipt of drilling costs.

Fourth, the original correspondence from Monty Moncrief to Representative Wright dated February 22, 1979, clearly indicated the possibility that the congressman might be interested in one or two oil and gas ventures -- which later resulted in his acquisition of interests in the Whatley No. 1 well and the L. D. Williams No. 1 well. The fact that an ambiguity arises by virtue of Representative Wright's February 26, 1979, letter in response to the earlier (February 22, 1979) correspondence from Monty Moncrief -- wherein the congressman indicated his interest in participating in one venture -- was not viewed as supporting the conclusion that Representative Wright intended to purchase an interest in only one well. Accordingly, the ambiguity in the correspondence was resolved in favor of Representative Wright.

Finally, Representative Wright's Financial Disclosure Statement for calendar year 1979 indicated that the interest was acquired in April of that year.

In the light of the foregoing, the Committee did not conclude that there was a reason to believe that Representative Wright violated any controlling standards of conduct in connection with his purchase of an interest in the L. D. Williams No. 1.

II.

COMMITTEE ACTION TAKEN IN CONNECTION WITH ITEM NO. 2 OF THE RESOLUTION OF PRELIMINARY INQUIRY

The second area pursued by Special Outside Counsel was:

> The circumstances surrounding [Representative Wright's] intervention in a matter before the Department of the Interior on behalf of Texas Oil & Gas Company

Counsel reported that on September 28, 1979, Representative Wright co-signed a letter to Secretary of the Interior, Cecil D. Andrus, on behalf of Texas Oil & Gas Corporation ("TXO"). The letter provided Secretary Andrus with background information on TXO and its dispute with the Arkla Exploration Company over mineral exploration leases on land in Arkansas.

The undisputed facts are that Representative Wright held no interest in TXO at any relevant time. As discussed in the Counsel's report, from February 1979 until March 1984, Representative Wright held an interest in the Whatley No. 1 well, an east-Texas natural gas well drilled and operated by TXO. However, as an investor in the well, Representative Wright's

financial return was determined only by the productivity of the well and could not have been affected by TXO's success or failure with respect to the Arkansas leases. Representative Wright's September 28, 1979, letter did not comment upon the merits of the dispute between TXO and Arkla nor did it demand or request extraordinary action by Department officials. In view of these findings, Special Outside Counsel concluded that Representative Wright's letter was not an improper communication.

The Committee concurred with Special Outside Counsel's finding that no violation of any House Rule or other standard of conduct was implicated in connection with Item No. 2 of the Committee's Resolution of Preliminary Inquiry. Accordingly, the Committee determined that no further action is warranted in this matter.

III.

COMMITTEE ACTION TAKEN IN CONNECTION WITH ITEM NO. 3 OF THE RESOLUTION OF PRELIMINARY INQUIRY

The third area examined by Special Outside Counsel was:

> Whether campaign funds were used, directly or indirectly, to pay for publication of a book [Reflections of a Public Man] from which he [Representative Wright] received a 55-percent royalty.

As a result of Counsel's review of Representative Wright's campaign expenditures for the years 1980-1988, as well as the expenses incurred in connection with the publishing and marketing of Reflections of a Public Man, Counsel concluded that there was no evidence on which to find that any campaign funds were used to produce and publish the book. However, the Counsel did report

that under either of two approaches, the facts surrounding sales of the book indicated repeated violations of relevant standards of conduct.

Special Outside Counsel approached the production and sale of the book from two perspectives. The first focused on the relationship between Representative Wright and Madison Publishing Company, the putative publisher of the book. Based upon Counsel's analysis of the December 12, 1984, royalty agreement, and the actions taken by the parties to the agreement, Representative Wright and Carlos Moore -- Counsel concluded that a joint venture existed and not one of a true royalty arrangement. This conclusion was supported by several facts including the fact that, on numerous occasions, Carlos Moore was not involved in either the marketing or distribution of the book. Moreover, the contract required Representative Wright to procure his copyright protection, which, according to a publishing expert witness, is always obtained by the publisher at his expense on behalf of the author in the author's name. As a result of this analysis, Counsel concluded that any funds obtained by Representative Wright (the 55-percent "royalty") as a result of book sales should be characterized as outside earned income subject to the 30-percent limitation on such income imposed by House Rule XLVII.

In the alternative, assuming arguendo that the royalty arrangement is viewed as such and, therefore, any funds obtained by Representative Wright were royalty payments, Counsel examined the circumstances of certain book sales for the purpose of

ascertaining whether true royalty income was obtained. Based upon this second analysis, Counsel concluded that, while due to time constraints only 19 out of 76 bulk purchasers were subpoenaed to testify before the Committee, the facts surrounding 11 bulk sales of the book clearly supported the view that royalty income was paid in connection with speeches given by Representative Wright.

As discussed below, Counsel was guided by the language of Advisory Opinion No. 13 of the Select Committee on Ethics which states that the characterization of a transaction is not dispositive of the nature of the income derived therefrom and that the "real facts" control. Counsel concluded that in 11 instances the royalties paid to Representative Wright were, in fact, honoraria. This conclusion was supported by the facts that (1) there was no evidence indicating that the subject bulk sales would have occurred but for the speech or appearance made by Representative Wright and (2) that the sponsors of the engagements were specifically asked to consider purchasing bulk quantities of the book in lieu of paying a cash honorarium. Particularly relevant was the fact that Representative Wright or his staff were consciously aware of the limit on outside earned income and that accepting the cash honorarium would have caused Representative Wright to exceed that limit.

While not rejecting Special Outside Counsel's view that the royalty arrangement was in fact a joint venture, the Committee decided that it would not adopt such an approach in this case. Instead, the Committee agreed to view the 11 bulk sales in

question based upon the facts and circumstances surrounding each sale in the context of assessing whether each such sale represented honorarium consideration in the form of a royalty received by Representative Wright.

The Committee's decision to approach the matter on this basis is supported by not only the language of Advisory Opinion No. 13 of the Select Committee on Ethics but also the history of the copyright royalty exception to the outside earned income limitation of House Rule XLVII. These matters are next discussed.

House Rule XLVII

House Rule XLVII, clause 1, limits the amount of outside earned income that a Member of the House of Representatives may accept in a calendar year to 30 percent of the aggregate congressional salary paid to the Member in that year. Clause 3, paragraph (d), defines outside earned income as follows:

> The term "outside earned income" means, with respect to a Member, wages, salaries, professional fees, honorariums, and other amounts (other than copyright royalties) received or to be received as compensation for personal services actually rendered * * *. (Emphasis added.)

A copyright is "the right of literary property as recognized and sanctioned by positive law." It is an "intangible, incorporeal right" granted to the author or originator of a literary production, carrying with it for a limited period the sole and exclusive privilege of multiplying, publishing and selling copies of the work. See, Black's Law Dictionary, Revised Fourth Edition, at 406. A royalty, in the case of a copyrighted work,

is a payment made to the author or composer by an assignee or licensee in respect of each copy of his work which is sold. Id. at 1496.

History Of Rule XLVII and The Copyright Royalty Exception

Commission on Administrative Review

The Commission on Administrative Review ("Commission") was created by the House of Representatives in July, 1976, to make recommendations concerning ethical practices, financial accountability, and administrative operations. "Financial Ethics," House Document 95-73, filed February 14, 1977, included a number of suggested changes to House Rules. Among the provisions which the Commission proposed in a draft resolution was a new House Rule XLVII, limiting a Member's outside earned income to 15 percent of the aggregate congressional salary received in a calendar year. The definition of outside earned income in the recommendation was exactly as that contained in current House Rules.

The Commission's rationale for an earned income limitation was that earned income, as opposed to "unearned,"

> "creates a variety of more serious potential conflicts of interest than does investment income, ranging from overt attempts to curry favor by private groups to subtle distortions in the judgment of Members on particular issues. * * * Moreover, many citizens perceive outside earned income as providing Members with an opportunity to 'cash in' on their positions of influence. Even if there is no actual impropriety, such sources of income give the appearance of impropriety and, in so doing, further undermine public confidence and trust in government officials." H. Doc. 95-73, supra, at 10.

When addressing the "family business" exception to what is considered outside earned income, the Commission stated its belief "that in implementing this [outside earned income] limitation care should be taken to prevent Members from circumventing it ... ." Id. at 11. The report included no discussion of or rationale for excepting copyright royalties from the definition of outside earned income.

The Commission held hearings on January 13, 14, and 31, and February 2 and 7, 1977. The only exchange on the subject of the copyright royalty exception occurred between two members of the Commission, Representatives Robert Bauman and Lee Hamilton, as follows:

> MR. BAUMAN. [The outside earned income rule] would permit a Member, for instance, to write a book and receive royalties from that book over a period of time?
>
> MR. L. HAMILTON. Yes.
>
> MR. BAUMAN. Regardless of the limitation of 15 percent?
>
> MR. L. HAMILTON. Yes.
>
> Financial Ethics, Hearings and Meetings before the Commission on Administrative Review, U.S. House of Representatives, 95th Cong., 1st Sess., 1977, at 247.

House Resolution 287

The recommendations of the Commission were incorporated into H. Res. 287, 95th Congress, 1st Session, introduced by Representative Lee Hamilton on February 16, 1977. Besides Mr. Hamilton, original co-sponsors of the Resolution included Representatives Obey, D'Amours, Meeds, Price, Wright, Brademas,

Foley, Bolling, Rostenkowski, Rodino, Thompson, Kastenmeier, Udall, Philip Burton, Preyer, Flowers, and Fenwick. Title VI of H. Res. 287 contained a new Rule XLVII, with the definition of outside earned income exactly as proposed by the Commission.

The Committee on Rules held a hearing on H. Res. 287 on February 23, 1977. Representative Otis Pike spoke in opposition to the earned income limit, noting certain "loopholes:"

> What is so magical about copyrights? I believe this is for the benefit of those who write books. I am all for them writing books. I think it is wonderful, but there are others who have believed that government was a full-time job and I will give you as an example Winston Churchill. He painted pictures. We are saying that in the name of ethics we are writing a provision under which Richard Nixon's earnings as a bookwriter would not be included, but if Winston Churchill wanted to sell a painting he would be too unethical to serve in the Congress of the United States.
>
> What is so magic about a book as opposed to a series of articles? What is so magic about the written word as opposed to the spoken word? Why a book but limitations on honoraria for saying the same things that you write in a book?
>
> Financial Ethics, Hearings and Markup before the Committee on Rules, House of Representatives, 95th Congress, 1st Session, on H. Res. 287, at 78.

Representative Pike's question did not receive a response and the Rules Committee took no action to amend the proposed definition of outside earned income.

When H. Res 287 was considered on the House floor, debate on proposed Rule XLVII was limited, focusing primarily on the supposed differences between "earned" and "unearned" income. Representative Frenzel attempted to identify outside earned

income by stating that "the determination is whether one earned it by the sweat of his brow, in which case it would be earned income." Congressional Record (daily ed.) H1582 (March 2, 1977). A motion to strike the outside earned income limit from the resolution failed by a vote of 79 to 344. Id. at H1622-1632.

Select Committee on Ethics

One of the Commission's recommendations was that a Select Committee on Ethics be established to review proposed legislation and issue interpretive opinions on the new rules. Such a Select Committee, the Select Committee on Ethics, chaired by Representative Preyer, was established on March 9, 1977, by H. Res. 383, 95th Congress, 1st Session. The Committee summarized its actions in its Final Report, House Report 95-1837, 95th Congress, 2d Session (January 3, 1979).

The Select Committee noted the major considerations that prompted adoption of House Rule XLVII: The "significant and avoidable potential for conflict of interest" on account of payments for personal services made to a Member of Congress by outside groups, and the concept that congressional service is a "full-time job." H. Rept. 95-1837, supra, p. 29. With respect to determining what constituted earned income, the Select Committee stated that "the facts of each individual case will govern." Id. This statement was a summary of the position taken in the Select Committee's Advisory Opinion No. 13, issued in October, 1978 which fully stated:

> Real facts controlling. - The limitations imposed by Rule XLVII may not be avoided by the characterization or disposition of any payment for services rendered. In all cases,

> the real facts will control. * * * Similarly, the label or characterization placed on a transaction, arrangement or payment by the parties may be disregarded for purposes of the Rule. Thus, if amounts received or to be received by a Member are in fact attributable to any significant extent to services rendered by the Member, the characterization of such amounts as partnership distributive share, dividends, rent, interest, payment for a capital asset, or the like, will not serve to prevent the application of Rule XLVII to such amounts. Moreover, the Rule applies to outside earned income realized in a medium other than money, for example, in property or services or through a bargain purchase or forbearance in consideration of personal services rendered.
>
> In short, income may not be recharacterized in order to circumvent the Rule. Indeed, characterization of income is essentially irrelevant. For purposes of this Opinion, there are two types of income - earned and unearned. If the compensation received is essentially a return on equity, then it would generally not be considered to be earned income. If the income is not a return on equity, then such income would generally be considered to be earned income and subject to the limitation.
>
> When such amounts received or to be received by a Member are designated as salary, fees, or commissions, the overriding presumption is that such amounts, almost by definition, constitute compensation for personal services rendered. An honorarium from a speaking engagement, for example, is obviously outside income. [Emphasis added.] Id. at 81-82.

As is apparent from the foregoing, not only was the Select Committee concerned about accurate characterization of income, but the files of the Select Committee also evidence concern about possible mischaracterization of copyright royalties to evade the outside earned income limit.

Significantly, the Select Committee retained the law firm of

Caplin & Drysdale for the purpose of providing advice in implementing House Rule XLVII. The firm took the lead in formulating what would later become Advisory Opinion No. 13. Letters dated October 31 and November 3, 1977, to the Staff Director of the Select Committee enclosed draft opinions which had as a proposed Section 4(a) of the Advisory Opinion, entitled, "Application of the Rule in Special Cases," a discussion of "Copyright Royalties."

The proposed language was as follows:

> (a) Copyright Royalties. Under clause 3(d) of the Rule, copyright royalties are expressly excluded from the definition of outside earned income. In this context, "copyright royalties" means amounts paid to a Member based on the numbers or dollar volume of sales of a literary or other work subject to copyright created by the Member, where the payor is regularly engaged in selling works similar to those created by the Member and the terms of payment are not dissimilar to those employed by the payor in other cases. It is not necessary that the copyright be in the name of the Member so long as the Member is compensated on a per unit or percentage basis. An advance against future copyright royalties on normal trade terms would also be excluded from outside earned income if the Member is obligated to repay the advance if he does not deliver the manuscript within a prescribed time. The exemption would not apply to amounts characterized as copyright royalties, however, where paid under arrangements that are outside normal business practices in such matters. For example, if a Member undertakes to write an expensive book in the light of a trade association's promise to see to it that a significant number of copies is sold, the Member's receipts from sales of the book would be treated as outside earned income for purposes of Rule XLVII. [Emphasis added.]

While the above-quoted draft language was not included in the final text of Advisory Opinion No. 13, it is notable that the

issued Opinion contains language which is, for intents and purposes identical to that which is presently contained in the discussion, entitled, "Real facts controlling", quoted above. In the Committee's view, it is reasonable to conclude that the Select Committee took the position that the discussion under the heading "Copyright Royalties", above, was, in point of fact, unnecessary since the final Opinion made clear that the facts and circumstances surrounding a particular situation would control the denomination of income as being either earned or unearned, including at such questions raised in the context of copyright royalties. Nonetheless, no records were found in the files of the Select Committee on Ethics which either explain why or identify when the discussion on copyright royalties was dropped.

While the outside earned income limit of House Rule XLVII was increased from 15 to 30 percent in 1981 (H. Res. 305, 97th Cong., 1st Sess.; Congressional Record (daily ed.), Dec. 15, 1981, H31529), the definition of outside earned income has not been changed since the rule was first adopted.

Senate Copyright Royalty Exception to Earned Income

A November 2, 1981, memorandum in the files of this Committee indicates that the copyright royalty exception in House Rule XLVII "first emerged on a staff level in Senate ethics consideration." Because of the possible nexus between House and Senate approaches to the matter of copyright royalties vis a vis outside earned income, the Committee reviewed the history of a prior Senate provision to gain insight into the Senate's intent and application of the exception. This analysis clearly leads to

the conclusion that the Senate and House embraced similar views on the matter of copyright royalty vis outside earned income limits. The Senate's action in the matter is next discussed.

The Senate Rule as Enacted

The Senate adopted S. Res 110, 95th Congress, 1st Session, on April 1, 1977. Among its provisions was a new Rule XLIV, to take effect January 1, 1979, which limited Senators, officers and employees to aggregate outside earned income of 15 percent of each individual's salary paid. Paragraph 3 of the rule included the following definition:

> (a) For the purposes of this rule, the term "outside earned income" shall, subject to the provisions of subparagraph (b), mean any income earned by an individual (other than the salary received as a Senator or officer or employee of the Senate) which is compensation received as a result of personal services actually rendered.
>
> (b) For the purposes of subparagraph (a), the term "outside earned income" does not include -
>
> > (1) advance on books from an established trade publisher under usual contract terms;
> >
> > (2) royalties from books;
> >
> > (3) proceeds from the sale of creative or artistic works; * * * .

Special Committee Hearings

Excepting income from writing books was discussed in hearings which the Special Committee on Official Conduct (the "Special Committee") held on February 1 and 2, 1977. Peter G. Peterson, Chairman of the Commission on Executive, Legislative, and Judicial Salaries noted that judges were permitted to write,

because of benefits to both the public and the individual, though an income limit applied. "Senate Code of Conduct," Hearings Before the Special Committee on Official Conduct on S. Res. 36, 95th Cong., 1st Sess., Feb. 1 and 2, 1977, at 17. Mr. Fred Wertheimer, appearing on behalf of Common Cause, suggested to the Committee that fees collected for speeches, but not writings, should be limited, because writing "is not the kind of activity that causes conflict of interest or apparent conflict of interest." Id. at 104. He later limited that to writing books, as opposed to articles. Senator Packwood, a Member of the Committee pointed out that publishers often had come to lobby on items before Congress of direct interest to them. Id. at 119.

Special Committee Markup

At the Special Committee's markup session, book royalties were the subject of considerable debate. Senator Packwood again pointed out that publishers often have an interest in legislation and may have a motive for helping out officials: "If he comes down here to lobby on postal rates because he is worried about first, second, and third class postage, he might be willing to give you $25,000 in advance." Markup Transcript at 49. Senator Robert Griffin offered an amendment to include royalties in outside earned income unless from a book written when the individual was not working for the Senate. In support of his amendment, he stated:

> [I]f you are trying to look for evil with respect to books, I am sure there are situations where the borderline publishing company will make an arrangement and make sure that a labor union or a chamber of

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> commerce will buy up so many of the books in advance.
>
> You know, if you are looking for that kind of a problem, it is there. Id. at 51.

The amendment failed by a vote of 3 to 7.

Later in the meeting, Senator Jacob Javits was successful in offering an amendment to require that book royalty advances must come from "an established publisher under usual contract terms." "By inserting the words 'established publisher'," Senator Javits said, "we deal with fly-by-night operations." He stated that he wanted to assure an "arms length" or "bona fide transaction." Id. at 56-58. Senator Thomas Eagleton asked about the circumstance where a union wants the Senator to write a book using a legitimate publisher, but the union guarantees it will use its best efforts to get the book sold. Senator Javits replied that such an instance would be a violation of the prohibition against the individual permitting "any compensation to accrue to his beneficial interest by virtue of influence improperly exerted from his position." Id. at 58.

Special Committee Report

In its report on the proposed Senate Code of Official Conduct, the Special Committee offered the following rationale for excepting book royalties from outside earned income:

> Royalties actually received from the sale of books are not to be included in outside earned income, since such royalty income is not directly or necessarily related to actual personal services rendered. If an individual writes a book, and it becomes a best-seller, any royalties received are beyond his direct control. It is income which is, in effect, a return on a prior investment of time and energy.

S. Rept. 95-49, "Senate Code of Official Conduct," Report of the Special Committee on Official Conduct to Accompany S. Res. 110, 95th Cong., 1st Sess., at 39.

The Special Committee again reflected concern about possible efforts to circumvent the outside earned income limit, particularly in the context of advances on royalties, when it stated its intention to prohibit:

> "arrangements that may be reached between a Member and a publishing firm where the advance is based on the knowledge that a particular segment of the public - not the public at large, would buy the book. For example, if a corporation or trade association promoted a cash advance arrangement knowing that they could control the number of books sold, the advance would be ... treated as within the 15% limitation." Id.

Floor Debate

During floor debate on S. Res. 110, the following exchange occurred between Senators Nelson and Packwood:

> Mr. NELSON. * * * Now, we do cover the situation in the remote chance that somebody thought an effective way to influence a Member would be to pay him an excessive price for a painting that he would not dare hang in his house. There is a paragraph which covers that:
>
> A Member, officer, or employee of the Senate shall not receive any compensation nor shall he permit any compensation to accrue to his beneficial interest from any source the receipt of which would occur by virtue of influence improperly exerted from his position as a Member, officer, or employee.
>
> Mr. PACKWOOD. Would that not apply to anything, not just an artistic work?
>
> Mr. NELSON: It applies to anything.
>
> * * * * * *

> Mr. PACKWOOD: Why then have we made an exception for books [but not articles]?
>
> Mr. NELSON: Books would have to be published by regular standard publishers. We eliminate those fly-by-night publishers who might have published a book which, because of an arrangement with a corporation or a labor union, they know would sell whether or not the book could succeed on its own out in the marketplace.
>
> Cong. Rec. (daily ed.), Mar. 21, 1977, S4532-33.

The effective date of the Senate outside earned income rule was postponed from 1979 to 1983. The rule was then repealed in 1982, before it could take effect. S. Res. 512, 97th Cong., 2d Sess.; see, Congressional Record (daily ed.), Dec. 14, 1982, S14562-4.

Based upon analysis of the history of House Rule XLVII, the Committee concludes that the Select Committee on Ethics, as demonstrated by the history and evolution of Advisory Opinion No. 13, was clearly aware that income derived from the sale of books could be deemed outside earned income if the real facts and circumstances surrounding such income indicated that the sale of books involved was associated with an activity in which the Member provided a service -- such as through a speech or appearance -- as opposed to a pure purchase of books not related to the Member's efforts. It is also reasonable to conclude that the deliberations of the Senate were taken into consideration by the Commission on Administrative Review and the later Select Committee on Ethics when House Rule XLVII was formulated. This conclusion is buttressed by the fact that the language in the

draft opinion presented by the law firm of Caplin & Drysdale regarding an arrangement between a Member and a trade association to assure purchase of the Member's book as being outside earned income and the relevant portions of the legislative history of S. Res. 110 thereon are substantively identical. In addition, both the Senate's action on S. Res. 110 (and the actions leading to its enactment) and the deliberations of the House Commission and the Select Committee on Ethics occurred during the same time-frame, 1976-1977.

In the light of its decision to adopt the second alternative offered by Special Outside Counsel for the purpose of analyzing Representative Wright's alleged royalty income, the Committee concluded that there was a reason to believe that Representative Wright violated controlling standards of conduct in connection with seven of the 11 bulk sales of Reflections of a Public Man, reported by Counsel. In the Committee's view, the sales demonstrated an overall scheme to evade the outside earned income limitations of House Rule XLVII by recharacterizing such income as royalties. The "royalty" income was generated by arranging bulk sales of Representative Wright's book to organizations before which he made a speech in lieu of the payment of a normal cash honorarium. Such arrangements and recharacterization of income will not defeat the operation of House Rule XLVII since the "real facts" will control regardless of how a transaction is denominated. (Regarding the other four bulk sales cited by Counsel, the Committee concluded that the record did not support

the issuance of a Statement of Alleged Violation.) This matter is addressed in the following Statement of Alleged Violations.

STATEMENT OF ALLEGED VIOLATION - COUNT ONE

The Committee has reason to believe that, during calendar years 1984-1987, Representative Wright violated House Rules XLIII, XLIV, and XLVII, as well as 2 U.S.C. 441i, in connection with the marketing and sale of his book, Reflections of a Public Man. The record indicates that in each of seven instances, Representative Wright received income denominated as royalty (based on a royalty of 55% of book price) from the sales of books, such sales having been arranged in lieu of traditional honoraria compensation for speeches. The Committee has reason to believe that the subject book sales were intended to avoid the limitations of law and House Rules on the reporting and receipt of outside earned income, honoraria, and gifts. Accordingly, the Committee believes that, notwithstanding that the congressman's income was nominally a royalty derived from the sale of books, because each "sale" was arranged as compensation for a speech, the result is that the income was, in fact, the honorarium for the speech. The seven instances, amount of income, and resultant alleged violations are described below. An eighth instance alleging an undisclosed gift is also described.

A. Calendar Year 1984

1. October 16, 1984, speech at Southwest Texas State University

The record indicates that Representative Wright gave a speech for which he received a $3,000 honorarium

check. Subsequent to receipt of the honorarium, university officials were asked whether they wished to receive books from Representative Wright who had reached the 30% annual limit on outside earned income imposed by House Rule XLVII. Arrangements were made for the school to receive $3,000 worth of the book, Reflections of a Public Man. Representative Wright received the check dated October 12, 1984, and endorsed it to Madison Publishing, which, in turn, deposited the check on November 28, 1984. By so doing, Wright received $1,650 (the 55-percent royalty proceeds) as royalty income in lieu of the $3,000 honorarium.

The Committee has reason to believe that, by accepting the honorarium (endorsing the check from the University), Representative Wright accepted an honorarium in excess of the $2,000 limit in violation of 2 U.S.C. 441i. Consequently, the Committee also has reason to believe that Representative Wright failed to disclose the proceeds as an honorarium on his Financial Disclosure Statement in violation of House Rule XLIV and exceeded the outside earned income limit imposed by House Rule XLVII.

B. Calendar Year 1985

1. April 1985 speech to National Association of Realtors (NAR)

The record indicates that Representative Wright spoke at NAR's April 1985 legislative meeting. The original $2,000 check from NAR to Representative Wright

noted the payment was for the congressman's honorarium. This check was voided and a second $2,000 check was issued for the purpose of buying multiple copies of the congressman's book, Reflections of a Public Man.

Therefore, the Committee concludes there is reason to believe that the $1,100 Representative Wright received as royalty income from this sale of the books was, in fact, the honorarium for his speech to NAR and constituted unreported outside earned income in violation of the limitation of House Rule XLVII and House Rule XLIV regarding financial disclosure.

2. July 29, 1985, speech to Hamel & Park

The record indicates that Representative Wright made a speech at the request of the law firm of Hamel & Park for which Representative Wright was offered an honorarium. It was suggested that, in lieu of the honorarium which the firm indicated it was willing to pay, the firm should, instead, purchase $2,000 worth of Representative Wright's book, Reflections of a Public Man. The firm made the book purchase as suggested.

The Committee has reason to believe that the $1,100 Representative Wright received as royalty income from this sale of the books, was, in fact, the honorarium for his speech to Hamel & Park and constituted unreported outside earned income in violation of the limitation of House Rule XLVII and

House Rule XLIV regarding financial disclosure.

3. September 1985 speech to Van Liew Capital

The record indicates that Representative Wright gave a speech to Van Liew Capital clients in September, 1985. Correspondence arranging the congressman's appearance specified a $2,000 honorarium for his doing so.

The record further indicates that prior to Representative Wright's appearance, Van Liew Capital was informed that it could not pay Representative Wright directly for his speech due to limitations on outside earned income (House Rule XLVII). Instead, purchase of the congressman's book, Reflections of a Public Man, was suggested. Thereafter, Van Liew Capital issued a check to purchase $2,000 worth of the book.

The Committee concludes there is reason to believe that the $1,100 royalty which Representative Wright received from Van Liew Capital from this sale of the books was, in fact, the honorarium for his speech to the organization and constituted unreported outside earned income in violation of the limitation of House Rule XLVII and House Rule XLIV regarding financial disclosure.

4. Late Fall 1985 speech to Ocean Spray Massachusetts Growers (Ocean Spray)

The record indicates that although Ocean Spray offered Representative Wright a $2,000 honorarium for

his speech, it was suggested that, instead, Ocean Spray buy copies of the congressman's book, Reflections of a Public Man.

Since the honorarium check had already been issued, a second check was prepared to effect the book purchase. In addition, it was agreed that Ocean Spray would not receive any books, but, rather, Representative Wright would distribute them.

The Committee concludes there is reason to believe that the $1,100 Representative Wright received as royalty income from this sale of books was, in fact, the honorarium for his speech to Ocean Spray and constituted unreported outside earned income in violation of the limitation of House Rule XLVII and House Rule XLIV regarding financial disclosure.

The Committee has further reason to believe that since Ocean Spray did not receive any books, the books were a gift to the congressman in violation of House Rule XLIII, clause 4, and House Rule XLIV regarding disclosure of gifts.

C. Calendar Year 1986

1. March 11, 1986, speech to the Fertilizer Institute

The record indicates that in conjunction with Representative Wright's speech, the Institute had expressed its desire "to do something" for him, such as present the congressman with a suitable memento, "such as a plaque, or small gift, et cetera." It was

suggested that the Institute purchase copies of the congressman's book, Reflections of a Public Man. Accordingly, prior to Representative Wright's appearance, the Fertilizer Institute purchased $2,023 worth of the book.

The Committee has reason to believe that the $1,112.65 Representative Wright received as royalty income from this sale of books was, in fact, the honorarium for his speech to the Fertilizer Institute and constituted unreported outside earned income in violation of the limitation of House Rule XLVII and House Rule XLIV regarding financial disclosure.

2. March 1986 speech to Mid-Continent Oil & Gas Association (Mid-Continent)

In conjunction with Representative Wright's speech to Mid-Continent's 1986 annual meeting, the record indicates that it was suggested that Mid-Continent purchase $1,000 worth of his book, Reflections of a Pubic Man, in lieu of paying an honorarium. Mid-Continent did not receive all the books it purchased but, rather, left distribution of most of the copies up to the congressman.

The Committee has reason to believe that the $550 Representative Wright received as royalty income from this sale of books was, in fact, the honorarium for his speech to Mid-Continent and constituted unreported outside earned income in violation of the limitation of House Rule XLVII and House Rule XLIV regarding

financial disclosure.

Moreover, since Mid-Continent did not receive all the books it purchased, the Committee has further reason to believe that the books constructively given to Representative Wright for his distribution constituted a gift to the congressman in violation of House Rule XLIII, clause 4, and House Rule XLIV regarding disclosure of gifts.

D. Calendar Year 1987

The record indicates that Mr. S. Gene Payte, a Ft. Worth, Texas, real estate developer, desired to give Representative Wright a $5,000 gift and, to that end, gave a check in that amount to Mrs. Wright. Representative Wright informed Mr. Payte he could not accept the gift and returned the check.

The record further indicates that later, on March 9, 1987, Mr. Payte decided to contribute $5,000 for revision and distribution of Representative Wright's book, Reflections of a Public Man. Mr. Payte wrote an additional $1,000 check on August 7, 1987. Mr. Payte only received 300-500 copies of the books which were never revised as he wished.

Since Mr. Payte did not receive all of the books, the Committee has reason to believe that the books not delivered (500-700 copies) were a gift to the congressman but not reported in violation of House Rule XLIV regarding disclosure of gifts.

IV.

COMMITTEE ACTION TAKEN IN CONNECTION WITH ITEM NO. 4 OF THE RESOLUTION OF PRELIMINARY INQUIRY

The fourth area explored by Special Outside Counsel was:

> Whether government resources were improperly used to complete work on a book [Reflections of a Public Man] from which he [Representative Wright] received royalties

Special Outside Counsel reported that Matthew Cossolotto, a writer and researcher on Representative Wright's staff, testified that he spent about 200 hours over an 8-11 month period preparing the book, Reflections of a Public Man, for printing. Other members of the congressman's staff had more limited roles in the preparation of the book.

In addition, Representative Wright's congressional office used some government resources to complete the manuscript, albeit on an apparently limited basis. While materials paid for by government funds may not be put to personal use, the Special Outside Counsel did not focus on this issue because of the limited extent to which this occurred. Instead, Counsel examined the efforts of Representative Wright's staff -- primarily Mr. Cossolotto, in assisting book preparation.

Special Outside Counsel concluded that a violation warranting further action was not indicated. Based upon the evidence and testimony, Counsel did not conclude that Representative Wright's use of his congressional staff to prepare his book violated relevant standards of conduct. In this connection, while no apparent attempt was made to keep the staff's work on the book separate from their work on official

business, it nevertheless remains that no records were kept of hours worked on the book as compared to the hours spent on official business. This applied to not only Matthew Cossolotto, who spent far more time than any other staff employee working on the book, but the other staff members as well.

Relevant testimony of Representative Wright's staff was that during the time of book preparation, there were periods during which staff worked substantially more than 40 hour work weeks. Thus it is entirely possible, indeed even probable, that although some work on the book was done during the "normal" 9 a.m. to 5 p.m. work day, staff employees worked on the book in addition to completing all the tasks ordinarily done as part of their official duties.

Such use of staff time is specifically permitted under relevant House guidelines. For example, Advisory Opinion No. 2 of the Committee on Standards of Official Conduct, July 11, 1973, states, in part:

> "[D]ue to the irregular time frames in which the Congress operates, it is unrealistic to impose conventional work hours and rules on congressional employees. At some times, these employees may work more than double the usual work week -- at others, some less. Thus, employees are expected to fulfill the clerical work the Member requires during the hours he requires and generally are free at other periods."

Moreover, Members are given wide discretion to determine the conditions and the duties of employment. Consequently, the broad latitude of the "guidelines" makes it impracticable, if not impossible, to preclude absolutely Members from requesting staff employees to work on non-official projects. Accordingly, because

it was not possible to determine whether Representative Wright directed his staff to work on the book during time that should have been devoted to official business, Special Outside Counsel did not conclude that Representative Wright violated any law or standard of conduct.

The Committee concurred with Special Outside Counsel. Central to the Committee's conclusion was the undisputed fact that Mr. Cossolotto, the primary staff person who assisted Representative Wright on the book, did not "create" text for the congressman. Instead, Mr. Cossolotto's efforts focused solely on editing the congressman's words as opposed to creating and editing text of his own devise. Thus, it can be fairly said that Mr. Cossolotto's efforts were not solicited for the purpose of generating text for Representative Wright's book but, rather, for the editing of text previously prepared by the congressman. Second, and of equal importance, is the fact that there is no evidence supporting a finding that Mr. Cossolotto's work on the book was done to the detraction of his official responsibilities as a congressional staff member. Consequently, it is entirely reasonable that Mr. Cossolotto's time working on the book, regardless of when it occurred, did not deny the government (specifically, Representative Wright's congressional office) full value of services paid for out of the official allowance.

In the light of the foregoing, the Committee did not conclude that there is reason to believe that a violation has occurred in connection with Mr. Cossolotto's or other staff activities associated with preparation of Representative Wright's

book. Again, this conclusion is buttressed by the fact that no records were maintained regarding Mr. Cossolotto's (or other staff) daily activities, the irregular nature of work hours by congressional staff, and the fact that there is no evidence that Mr. Cossolotto's fulfillment of his official responsibilities suffered as a result of his efforts on the book.

V.

COMMITTEE ACTION TAKEN IN CONNECTION WITH ITEM NO. 5 OF THE RESOLUTION OF PRELIMINARY INQUIRY

Item No. 5 of the Preliminary Inquiry focused on Representative Wright's "use of a condominium in Fort Worth, Texas". In pursuing this aspect of the Preliminary Inquiry, Special Outside Counsel investigated not only Representative Wright's use of a condominium but other aspects of Representative Wright's relationship with and receipt of benefits from Mr. George Mallick including, for example, Mrs. Wright's salary from Mallightco, Inc., an investment venture jointly and equally owned by Representative and Mrs. Wright and Mr. and Mrs. George Mallick.

Regarding Mr. Mallick, the Committee focused on whether Mr. Mallick could be viewed as an individual having a direct interest in legislation as that term is used in House Rule XLIII, clause 4. The rule states, pertinently:

> A Member, officer, or employee of the House of Representatives shall not accept gifts (other than personal hospitality of an individual or with a fair market value of $50 or less) in any calendar year aggregating $100 or more in value, directly or indirectly, from any person (other than from

> a relative of his) having a direct interest in legislation before the Congress or who is a foreign national (or agent of a foreign national). Any person registered under the Federal Regulation of Lobbying Act of 1946 (or any successor statute), any officer or director of such registered person, and any person retained by such registered person for the purpose of influencing legislation before the Congress shall be deemed to have a direct interest in legislation before the Congress.

This analysis became relevant in view of the Committee's determination that there is a reason to believe that Representative Wright received gifts from Mr. Mallick. As a result of its review, the Committee issued a Statement of Alleged Violation, infra., to Representative Wright regarding various gifts. Moreover, the Committee determined that there is reason to believe Mr. Mallick was an individual having an interest in legislation and, therefore, the gifts involved not only raised questions with respect to reporting of such on the annual Financial Disclosure Statements required by the Ethics in Government Act of 1978, but also the limitations imposed by House Rule XLIII, clause 4.

Before presenting the Statement of Alleged Violation issued in these matters, the Committee first offers its analysis of House Rule XLIII, clause 4 and why it has reason to believe Mr. Mallick was a person with a direct interest in legislation. There follows a summary of the Committee's review of the so-called gift rule and its interpretation and application in relevant prior cases.

In addition to the language of the Rule itself, the Select Committee on Ethics issued Advisory Opinion No. 10, on May 11,

1977, to provide guidance on the intent and application of the phrase "having a direct interest in legislation." Pertinently, the Opinion states:

> The issue before the Select Committee is to clarify the term "direct interest in legislation before the Congress." The Congress, by the very nature of the institution, represents individuals and groups with a direct interest in legislation. Taxpayers anticipating a rebate, parents petitioning for day care centers, etc., communicate with Members of Congress concerning legislation of interest to them. In one sense, therefore, most citizens have a "direct interest in legislation before the Congress." But it is not the intent of Rule XLIII, clause 4 to bar all gifts valued at more than $100 from concerned citizens interested in federal legislation.
>
> The problem for the Select Committee is to delineate to the extent possible the point at which individuals or organizations are transformed from being "concerned citizens" to those having a "direct interest" in legislation, placing them in a class of donors from whom Members may not accept certain gifts valued at more than $100.
>
> * * *
>
> However, there are clearly a number of individuals and groups which neither retain paid lobbyists nor maintain a Political Action Committee, yet have a very direct and substantial interest in legislation before the Congress. With this understanding, the Select Committee believes that Members should not accept gifts aggregating over $100 in value from any individual or organization that the Member knows has a distinct or special interest in influencing or affecting the federal legislative process which sets such individual or organization apart from the general public. In this context, the Select Committee emphasizes the clear statement of intent issued by the Commission on Administrative Review that Members should be "alerted to the need to exercise care . . . in accepting gifts from all sources"

(emphasis added). Implicit in this admonition is the understanding that while individuals often receive gifts from non-relatives, and occasionally from organizations, it is rare that such gifts are valued at more than $100. Therefore, unless such a gift is from a close personal friend, it is most likely offered because of the Member's position as a United States Representative. See also, Final Report of the Select Committee on Ethics, H. Rept. 95-1837, January 3, 1979, at 11-12.

Manual of Offenses and Procedures, Korean Influence Investigation Pursuant to H. Res. 252, 95th Cong., 1st Sess. (Comm. Print, June, 1977)

In the captioned Committee Print, the Committee addressed the intent of House Rule XLIII, clause 4:

> The legislative history of the initial version of this provision indicated that it was intended to cope with the "ill-motivated giving or receiving of gifts [that] certainly has no place in government." (Citing H. Rept. No. 1176, 90th Cong., 2d Sess. (1968), at 19.) [Manual, page 27.]

The Rule at the time of the Korean Influence Investigation prohibited acceptance of gifts of "substantial value," rather than the current $100 limit, "to permit a flexible determination whether in a particular situation a gift will compromise or appear to compromise the integrity of the legislative process." (Id. at 29.) In the Committee Print there was extensive discussion of how this same flexibiity is required for judging compliance with all of the elements of the rule:

> [T]he [gift in] question ... must be judged against the particular circumstances to determine whether its receipt by a Member created an actual or apparent conflict of interest. * * *
>
> So, too, the "direct interest" phrasing of the standard was intended to be suggestive of situations presenting the danger of actual

or apparent conflicts of interest. (See 114 Congressional Record 8778 (1968), remarks of Representative Price: "Another question will be 'Do not all people have legislative interests?' The answers again must be found in the facts of a given case."; 8799 remarks of Representative Teague: "Moreover, one cannot fix exact criteria for direct interest or decide when influence is 'improperly exerted' without taking into account the particular circumstances." The test here appears to be whether the donor would be personally (or officially) affected in some specific and definable way by the passage or defeat of legislation. The more the donor's interest is shared with a large class of persons, however, or with the public at large, the less likely it is that the provision was meant to prohibit the acceptance of the gift. Similarly, if the consequences for the donor are remote or contingent, the rule probably should not apply. At one extreme, a large gift from the head of an energy company during the pendency of an energy-company divestiture bill would be barred. But a similar gift from the same source during the pendency of general minimum-wage or economic stimulus legislation might not amount to a "direct interest."

The fourth standard is further limited to gifts from donors with a "direct interest" in legislation before Congress. No rationale for this particular restriction on the scope of the standard is set forth in the legislative history of the standard and it would appear that the danger of conflicts of interest may be almost as great where the donor is interested in future legislation not yet before Congress or in obtaining the Member's assistance in a nonlegislative matter. Whether legislation is "before the Congress" for purposes of the Code provision presents some problems of interpretation ... . Despite the ambiguity and subjectivity of Rule XLIII(4), this committee stated that it firmly believed that, "given the facts to test the standard, the subjectivity can be resolved ... ." See H. Rept. No. 1176, supra at 19; 114 Congressional Record 8778 (1968) (remarks of Representative Price), 8782 (remarks of Representative Halleck).

At the very least, principles of fair

> warning and fidelity to the underlying purpose suggest that Rule XLIII(4) should apply only where the legislative issue in which the donor had a "direct interest" was under active consideration within at least one House of Congress. This would include preliminary discussions with Members [or] staffs about the need for legislation and the conduct of legislative oversight hearings, not just the pendency of a particular bill. (Id. at pages 29-30; emphasis in the original.)

The Committee noted further that while the rule did not include a requirement that the Member have acted with knowledge of the identity of the source of the gift, the gift's actual value, or the interest of the donor in legislation before the Congress, "Common sense, as well as the legislative history of the Code, suggests that an innocent, unknowing receipt of a gift raises little risk of actual or even apparent conflict of interest." The Member's notice has to be ascertained by the Committee "sifting the facts of particular cases." Among such facts, the dollar value and form of the gift are "among the circumstances that the committee will have to weigh in determining whether a Member violated the Code." (Id. at 30-31.)

The degree of knowledge and type of intent required as a predicate for penalizing a Member for an alleged violation of Rule XLIII, clause 4 were discussed further by the Committee:

> In considering whether the conduct of Members of the House warrants noncriminal, disciplinary sanctions, this Committee should not adhere to the general criminal law standard making actual or constructive knowledge a prerequisite to conviction. As the Code of Official Conduct and the Code of Ethics for Government Service indicate, Members of Congress are expected to adhere to standards of conduct far more demanding than the bare minimum standards established by our

criminal laws. In order to protect the integrity of our governmental processes, public officials must take care to avoid even the appearance of impropriety. Insistence on that more exacting degree of care required of Members of the House is critical to the committee's determination whether to recommend the imposition of sanctions on Members as a result of the facts revealed by this investigation.

Even if a Member did not have actual knowledge of a donor's ties to the Korean Government, for example, or did not actually know of any corrupt motivation underlying the gift offered, the Member should still be subjected to at least some sanction if the circumstances placed him on notice that the gift was tendered in an attempt by a foreign government to influence his present of future official actions and he took no action (or insufficient action) to attempt to discover the true nature and purpose of the gift. That is, if all the circumstances should have alerted a responsible Member, concerned about both the letter and spirit of the law, to hesitate and inquire before acting, the failure of a Member to learn the truth should not be an excuse. This is a higher standard than actual knowledge or the reckless disregard standards of the criminal law and would permit sanctions to be imposed upon a finding of a breach of duty of reasonable inquiry.

The latter standard is particularly appropriate for evaluating a Member's conduct in receiving gifts or compensation, since all public officials should be conscious of the possibility that any substantial gift may be offered in an attempt to secure improper influence. Only by holding a Member to an affirmative duty of reasonable inquiry can the House protect against the serious problem posed by the creation of actual or apparent subversion of independent decision-making. Such a duty of reasonable inquiry is also appropriate in view of the ability of a Member to obtain an advisory opinion with respect to the appropriateness of his proposed course of conduct. See House Rule X 4.(c)(1)(D). [Id. at 35; emphasis in the original.]

The Committee's ultimate recommendations in the Korean influence cases were not premised on Rule XLIII, clause 4, but on clauses 1 (failure to reflect creditably on the House) and 6 (conversion of campaign funds to personal use), as well as other standards of conduct.

In the Matter of Representative Charles H. Wilson, H. Rept. 96-930, 96th Cong., 2d Sess. (May 8, 1980)

Counts One, Two, and Three of a 15-count Statement of Alleged Violation charged that Representative Wilson's receipt of payments totalling $10,500 from Mr. Lee Rogers over a period of time constituted gifts of substantial value from a person with a direct interest in legislation, in violation of House Rule XLIII, clause 4. These charges were later found to have been proved by clear and convincing evidence.

The evidence supporting Mr. Rogers' direct interest in legislation, along with testimony received during a disciplinary hearing, consisted of correspondence among Mr. Rogers, his attorney, O. Robert Fordiani, and Representative Wilson, concerning H.R. 5838, 93rd Congress, 1st Session, and correspondence between Mr. George Gould and Mr. Rogers concerning postal rates and classification. (p. 6, Summary; p. 329-41, Exhibits)

Of particular note is the fact that Representative Wilson's attorney filed a motion for a Bill of Particulars. In response, the Committee Counsel recommended, and the Committee adopted, a Bill of Particulars. The pertinent information sought on Representative Wilson's behalf (Q), and the responses provided in

the Bill of Particulars (A), were as follows:

> Q: The "legislation before the Congress" in which Lee Rogers allegedly had "a direct interest."
>
> A: All legislative and oversight authority of the United States Congress over the United States Postal Service including:
>
> > 1. Hearings on Treasury, Post Office, and General Government Appropriations for 1972 Before A Subcommittee of the Committee on Appropriations, 92nd Cong., 1st Sess., Pt. 2, Postal Service (1971).
> >
> > 2. Hearings on the Supplemental Appropriations Bill, 1972 Before Subcommittees of the Committee on Appropriations, 92nd Cong., 1st Sess., U.S. Postal Service (1971).
>
> Q: The nature of Mr. Rogers' "direct interest" in said legislation.
>
> A: Lee Rogers was, during the time alleged, owner of a large direct mail business and in this capacity an extensive user of 1st and 3rd class mail.
>
> Q: The definition of "direct interest in legislation before the Congress" utilized by the Committee.
>
> A: The definition of "direct interest in legislation before the Congress" utilized by the Committee is a subjective test of whether the donor would be personally or officially affected in some specific and definable way by: (1) the passage or defeat of legislation, or (2) Congressional intervention in a non-legislative matter before a government department or agency.
>
> This would include preliminary discussions with Members of Congress or staff about the need for legislation and the conduct of legislative oversight hearings. [P. 69.] (Emphasis added.)

In the Matter of Representative George V. Hansen, H. Rept. 98-891, Vol. 1, 98th Cong., 2d Sess. (July 19, 1984)

On April 2, 1984, Representative Hansen was convicted of

filing false statements in violation of 18 U.S.C. §1001 based on his financial disclosure statements under the Ethics in Government Act of 1978 (EIGA). Pursuant to Committee Rule 14, a Preliminary Inquiry was commenced to determine if any offense was committed over which the Committee had jurisdiction. In its Resolution of June 14, 1984, the Committee concluded that the evidence constituted violations of a number of provisions over which the Committee had jurisdiction, including House Rule XLIII, clause 4.

At issue in Hansen were pay-off of a loan owed by the congressman and a profit in silver dealings by Nelson Bunker Hunt. In the "Report Upon Completion of the Preliminary Inquiry," the Committee's Special Counsel noted that Advisory Opinion No. 10 of the Select Committee on Ethics, 95th Congress, included under the prohibition of House Rule XLIII, clause 4 "anyone who has an interest in legislation distinct from the 'general public interest' in legislation." The Special Counsel argued that Nelson Bunker Hunt's "interest in matters before the Congress was open and notorious." "Given his wide and varied interest in matters before the Congress and the direct impact which the actions of Congress have upon his business activities, Nelson Bunker Hunt obviously is a person with a direct interest in legislation within the definition and intent of that term." (House Report 98-891, Vol. 1, at 325.)

Representative Hansen's counsel took issue with this argument at the disciplinary hearing the Committee held on June 20, 1984, for the sole purpose of determining the sanction to be

recommended to the House:

> In other words, if one receives a gift exceeding $100 from anybody who is a well-known figure in the business world, presumably there is legislation before the Congress at any time affecting people in the business world, that violates the Special Counsel's rules that he has suggested to this committee were violated by the Congressman.
>
> * * * [E]ven if the loan were in some way viewed as a gift, there is nothing more than this kind of general interest in some undefined legislation. [Id. at 350 -351.]

The Special Counsel to the Committee retained in the Hansen case rebutted this by pointing out that Representative Hansen arranged and attended a meeting with the Secretary of the Army for individuals associated with Mr. Hunt. Id. at 367.

The House adopted the Committee's report in the matter and reprimanded Representative George Hansen on July 31, 1984. H. Res. 558, 98th Cong., 2d Sess.; Cong. Record, daily ed., July 31, 1984, H8050-8063.

In light of the foregoing relevant precedents of the Committee as well as Advisory Opinion No. 10 of the Select Committee on Ethics and its Final Report, the Committee had reason to believe Mr. Mallick was an individual with a direct interest in legislation. The Committee made this determination based upon a number of facts.

For over twenty years prior to the time George Mallick entered into a formal business relationship with Representative Wright in connection with the formation of Mallightco, Inc., he was a major real estate developer in the Fort Worth, Texas, area. For example, between 1959 and 1963, Mr. Mallick built

several hundred single-family homes in Fort Worth, and between 1963-1965, he built a retirement village for the Third Order of St. Francis. During this period, Mr. Mallick also was involved in the construction of commercial office space. Specifically, in 1965, Mr. Mallick built the Summit Building in downtown Fort Worth and around 1966 he constructed a shopping center in a suburb of the city. Later, in 1967 to 1970, Mr. Mallick constructed the Mallick Tower, a ten-story office buiding in downtown Fort Worth.

Mr. Mallick was also a major developer of residential properties. In 1971, he began building the Hulen Place Apartments and developing the so-called "Mallick Concept" -- the construction of small, inexpensive apartments for singles or just-married young adults. Mr. Mallick followed the successful completion of the Hulen Place Apartments with the construction of an apartment complex called Second Dimension consisting of 176 units. Second Dimension was completed in 1974 and later followed by another project in Fort Worth, Texas, during the period 1976 to 1980 called the Park Ridge Development. In the early 1980's Mr. Mallick altered his business focus and withdrew from residential apartment construction and began building large-scale office structures. These structures included a project in 1981, the Hulen Towers office complex, and a retail center which was completed by the end of 1986. Finally, Mr. Mallick's other projects in the latter part of the 1980's included the construction of a 23,000 square foot shopping center in Benbrook, Texas, the River Pointe Plaza, discussed infra.

In addition to Mr. Mallick's real estate development activities, he has for some period of time invested substantial sums of money in oil and gas ventures. These ventures were primarily entered into through an entity known as the Mallick Family Drilling Fund. At one point the value of Mr. Mallick's investments in oil and gas ventures was as high as $1,457,000. The Mallicks disposed of all of their oil and gas interests during 1986.

In light of the foregoing, it is readily apparent that Mr. Mallick was an individual who, for a long period of time prior to the creation of Mallightco, Inc., clearly occupied a position distinct from the public at large by virtue of his extensive real estate and oil and gas investments. As such, it is reasonable to infer that Mr. Mallick, much more so than the general public, could be deemed an individual who would take a great interest in the development and implementation of federal legislation affecting the real estate development industry and oil and gas investments, including for example, the tax consequences arising therefrom. In this regard, it is sufficient to simply observe that during the period of time of his real estate and other investments, major legislation was passed that affected, either directly or indirectly, Mr. Mallick's business activities.

In addition to Mr. Mallick's extensive real estate and other investments which began as early as 1960, as described above, Mr. Mallick has been involved in yet other activities which would support a conclusion that he has a direct interest in legislation.

First, Mr. Mallick acted in 1986-1987 on behalf of Representative Wright, and at the congressman's request, in connection with the preparation of an analysis concerning potential recapitalization legislation to deal with the savings and loan crisis. Significantly, Mr. Mallick had discussions with representatives of savings and loans and the Federal Home Loan Bank Board, the result of which was a report he caused to be submitted to Representative Wright in February 1987 on possible legislative approaches. In his report to Representative Wright, Mr. Mallick specifically addressed the issue of allowing "lenders and borrowers to work out of their problems, rather than for the FHLBB [Federal Home Loan Bank Board] to pursue foreclosure as the first resort, rather than the last resort." As a matter of fact, Mr. Mallick had a personal experience with this issue of so-called "forebearance". Specifically, the following exchanges occurred in Mr. Mallick's May 12, 1988, deposition given in connection with a lawsuit involving a savings and loan's foreclosure on an asset, the River Pointe Plaza shopping center, for which George Mallick was the guarantor of the loan:

> Q. At what point in time did it come to your attention that there was problem here, or was that sort of after the fact or before the note was due? Or when did you--
>
> A. It seems like it was sometime in the early part of 1986, as I remember it.
>
> * * *
>
> Q. Approximately how many square feet, usable square feet, did River Point have within its parameters?
>
> A. Approximately 25,000.

Q. Do you know, approximately, of the 25,000 how many square feet were actually under lease as of June 27th of '87?

A. I believe about--somewhere between three and five thousand square feet.

Q. Other than the worsening of the economy in general in Texas, and other than the construction of other somewhat comparable commercial shopping centers within a one-mile radius of the subject property, are you aware of any other economic factors or other factors that in your judgment contributed to the inability to lease space in the subject property?

A. Yes. There's a factor concerning the lenders' approach to real estate in this area, whether it be the thrift institutions or the banking institutions.

For example, there would be a chance to lease space at a lesser price. Many of the institutions were under the supervision of the regulators. There was an atmosphere that existed to where in earlier days, if you had problems like this, you were able to have the flexibility to work them out.

Because of this particular time in our industry, that flexibility wasn't allowed, because of the problems of the lenders themselves. They weren't able to be flexible with their borrowers in order to maneuver and work things out. That would contribute a great deal, in my opinion.

Q. Well, addressing that comment, what I understand you to be saying is that those S & Ls, banks, other lending institutions that were not under regulation by the federal government, many of them had people who were monitoring their loan portfolios, and this, in turn, led to a tightening of credit, generally speaking, in the industry as a whole.

Would that be a fairly accurate resume?

A. Yes, but there is an additional thought to this. It not only tightened their ability to lend, it also restricted their ability to be able to give forebearance, to negotiate, work out situations to help the developer to try to work the problem out.

Mallick's effort to assist Representative Wright in the preparation of an analysis of the savings and loan matter were clearly within the scope of activity the Committee described in its response to the Bill of Particulars filed in Wilson. See, Wilson, supra. at 69, where the Committee stated an interest in legislation would "include preliminary discussions with Members of Congress or staff about the need for legislation and the conduct of legislative oversight hearings."

Second, beyond his work regarding recapitalization legislation, Mr. Mallick was actively involved in 1986 in attempting to secure private financing which would have allowed his participation as one of the developers of a Fort Worth, Texas, project known as Stockyards '85, an urban rehabilitation program funded by a $4.5 million Economic Development Administration grant to the City of Fort Worth. (This grant was part of an overall legislative approach to revitalize urban Fort Worth that included a September, 1984, $600,000 EDA grant for the conversion of North Commerce Street to a pedestrian mall which later was supplemented with another $600,000 grant in October, 1985.)

In particular, Mr. Mallick met with the three principals of the Stockyards '85 project whom Mr. Mallick assisted in the development of a financial and management plan to get the project moving on a successful track. It was agreed that, if successful, Mr. Mallick and one of the principals of Stockyards '85 would form a new corporation named Fort Worth Stockyards Corporation. If Mr. Mallick successfully obtained the necessary financing,

would take executive and directory control of the project and receive, in return, 17% of the capital shares of the Fort Worth Stockyards Corporation. With respect to the corporation, the entire Mallick family was to be involved as officers. For example, Christopher Mallick became the Chief Operating Officer, Michelle Mallick became corporate treasurer and financial officer, and Michael Mallick became vice president in charge of construction.

Mallick was unable to secure the financing necessary for the successful completion of Stockyards '85 and as a result, the Fort Worth Stockyards Corporation never became active and Mr. Mallick's involvement in the project terminated during February 1987. Nonetheless, Mr. Mallick was a real estate developer who actively sought to personally and financially benefit from federal grants designed to enhance the economic development and related infrastructure activities of Fort Worth. These federal programs made this area more attractive for the private investments which George Mallick was pursuing.

In view of the above, the Committee has reason to believe that George Mallick was an individual with a direct interest in legislation.

The Committee also has reason to believe that Representative Wright received certain gifts between 1979 and 1988, almost $145,000 in value, from George Mallick which were not reported on the Financial Disclosure Statements filed by the congressman pursuant to the Ethics in Government Act of 1978. The gifts were comprised of free housing, housing at a reduced rate, salary to

Mrs. Wright, and the free use and maintenance of an automobile. In view of the Committee's determination that there is reason to believe Mr. Mallick was a person with a direct interest in legislation, the Comittee also has reason to believe that Representative Wright's receipt of such gifts violated House Rule XLIII, clause 4.

While a Statement of Alleged Violation has been issued to Representative Wright in connection with the gifts described above, the Committee emphasizes that the House gift rule is not intended to be destructive of normal social relationships. Members of Congress do not exist in a "vacuum" and should be expected to have personal friends with whom gifts can be exchanged. However, public officials must be particularly sensitive to the source and value of a gift, the frequency of gifts from one source, and possible motives of the donor. The nature and extent of the apparent gifts to Representative Wright and his wife from Mr. Mallick indicates that Representative Wright failed in his duty to exercise reasonable care to avoid even the appearance of impropriety, which is the hallmark of House Rule XLIII, clause 4.

STATEMENT OF ALLEGED VIOLATION - COUNT TWO

RECEIPT OF GIFTS OF FREE HOUSING

The alleged violations described below arise as a result of Representative and Mrs. Wright's relationship with Mr. and Mrs. George Mallick, the two couples' joint ownership of an investment corporation known as Mallightco, Inc., and Mrs. Wright's

purported employment association with the corporation.

The record indicates that during the period 1979 through 1984, Representative and Mrs. Wright were provided free housing in two apartments located in Fort Worth, Texas. Particularly with respect to the Wrights' free use of an apartment during 1980 through 1984, such free use was arranged by Mr. George Mallick but not as part of Mrs. Wright's compensation from Mallightco, Inc. The Committee has reason to believe that Mr. Mallick is an individual with a direct interest in legislation.

While the alleged gifts of free housing involved were assertedly provided to Mrs. Wright, the benefits derived therefrom are imputed to the congressman because of the circumstance indicating that the free housing was not provided to Mrs. Wright wholly independent of her spousal relationship. Notably, Representative Wright and Mr. Mallick maintained a close social relationship for a period of years prior to the time Mr. Mallick arranged the free housing. Finally, Representative Wright shared the benefits of Mr. Mallick's gift of free housing to the same extent as did his wife.

A. Calendar Year 1979

The record indicates that in calendar year 1979, Representative Wright received a gift of free housing valued at $2,151 arising out of his free use of an apartment located at 4212-C Hulen Place, Fort Worth, Texas, and controlled by George Mallick, an individual the Committee has reason to believe had a direct interest in legislation.

Because this gift to Representative Wright was not reported

on his Financial Disclosure Statement for calendar year 1979 as required by House Rule XLIV, the Committee has reason to believe that Representative Wright violated House Rule XLIV and House Rule XLIII, clause 4, the latter of which imposes a limit of $100 on gifts received from persons with a direct interest in legislation.

B. Calendar Year 1980

The record indicates that in calendar year 1980, Representative Wright received a gift of free housing valued at $2,868 arising out of his free use of an apartment located at 4212-C Hulen Place, Fort Worth, Texas, and controlled by George Mallick, an individual the Committee has reason to believe had a direct interest in legislation.

Because this gift to Representative Wright was not reported on his Financial Disclosure Statement for calendar year 1980 as required by House Rule XLIV, the Committee has reason to believe that Representative Wright violated House Rule XLIV and House Rule XLIII, clause 4, the latter of which imposes a limit of $100 on gifts received from persons with a direct interest in legislation.

C. Calendar Year 1981

The record indicates that in calendar year 1981, Representative Wright received a gift of free housing valued at $3,279 arising out of his free use of apartments located at 4212-C Hulen Place, Fort Worth, Texas, and 1067 Roaring Springs Road, Fort Worth, Texas, and each controlled by George Mallick, an individual the Committee has reason to believe had a direct

interest in legislation.

Because this gift to Representative Wright was not reported on his Financial Disclosure Statement for calendar year 1981 as required by House Rule XLIV, the Committee has reason to believe that Representative Wright violated House Rule XLIV and House Rule XLIII, clause 4, the latter of which imposes a limit of $100 on gifts received from persons with a direct interest in legislation.

D. Calendar Year 1982

The record indicates that in calendar year 1982, Representative Wright received a gift of free housing valued at $7,800 arising out of his free use of an apartment located at 1067 Roaring Springs Road, Fort Worth, Texas, and controlled by George Mallick, an individual the Committee has reason to believe had a direct interest in legislation.

Because this gift to Representative Wright was not reported on his Financial Disclosure Statement for calendar year 1982 as required by House Rule XLIV, the Committee has reason to believe that Representative Wright violated House Rule XLIV and House Rule XLIII, clause 4, the latter of which imposes a limit of $100 on gifts received from persons with a direct interest in legislation.

E. Calendar Year 1983

The record indicates that in calendar year 1983, Representative Wright received a gift of free housing valued at $7,800 arising out of his free use of an apartment located at 1067 Roaring Springs Road, Fort Worth, Texas, and controlled by

George Mallick, an individual the Committee has reason to believe had a direct interest in legislation.

Because this gift to Representative Wright was not reported on his Financial Disclosure Statement for calendar year 1983 as required by House Rule XLIV, the Committee has reason to believe that Representative Wright violated House Rule XLIV and House Rule XLIII, clause 4, the latter of which imposes a limit of $100 on gifts received from persons with a direct interest in legislation.

F. Calendar Year 1984

The record indicates that in calendar year 1984, Representative Wright received a gift of free housing valued at $7,800 arising out of his free use of an apartment located at 1067 Roaring Springs Road, Fort Worth, Texas, and controlled by George Mallick, an individual the Committee has reason to believe had a direct interest in legislation.

Because this gift to Representative Wright was not reported on his Financial Disclosure Statement for calendar year 1984 as required by House Rule XLIV, the Committee has reason to believe Representative Wright violated House Rule XLIV and House Rule XLIII, clause 4, the latter of which imposes a limit of $100 on gifts received from persons with a direct interest in legislation.

STATEMENT OF ALLEGED VIOLATION - COUNT THREE

RECEIPT OF GIFTS OF REDUCED HOUSING COSTS

The alleged violations described below arise as a result of

Representative and Mrs. Wright's relationship with Mr. and Mrs. George Mallick. The record indicates that during the period 1985 through 1988, Representative and Mrs. Wright were provided reduced-rate housing in an apartment/townhouse located in Fort Worth, Texas. During this period and notwithstanding the fact that Representative and Mrs. Wright had exclusive use and control of the apartment/townhouse which included the placement of their personal belongings and furnishings, payment for their use was based upon a per diem rate reflecting only those days for which the congressman and/or his wife were physically present in the apartment/townhouse.

Accordingly, the Committee has reason to believe that the per diem arrangement represented a gift to Representative Wright and his wife because it did not take into account the fact that the Wrights had totally relocated their personal effects in the apartment/townhouse in conjunction with their exclusive use of the facility. The Committee also has reason to believe that Mr. Mallick is an individual with a direct interest in legislation.

A. Calendar Year 1985

The record indicates that in calendar year 1985, Representative Wright received a gift of reduced housing cost valued at $6,918 arising out of his use of an apartment/townhouse located at 1067 Roaring Springs Road, Fort Worth, Texas, and controlled by George Mallick, an individual the Committee has reason to believe had a direct interest in legislation.

Because this gift to Representative Wright was not reported on his Financial Disclosure Statement for calendar year 1985 as

required by House Rule XLIV, the Committee has reason to believe that Representative Wright violated House Rule XLIV and House Rule XLIII, clause 4, the latter of which imposes a limit of $100 on gifts received from persons with a direct interest in legislation.

B. Calendar Year 1986

The record indicates that in calendar year 1986, Representative Wright received a gift of reduced housing cost valued at $6,088 arising out of his use of an apartment/townhouse located at 1067 Roaring Springs Road, Fort Worth, Texas, and controlled by George Mallick, an individual the Committee has reason to believe had a direct interest in legislation.

Because this gift to Representative Wright was not reported on his Financial Disclosure Statement for calendar year 1986 as required by House Rule XLIV, the Committee has reason to believe that Representative Wright violated House Rule XLIV and House Rule XLIII, clause 4, the latter of which imposes a limit of $100 on gifts received from persons with a direct interest in legislation.

C. Calendar Year 1987

The record indicates that in calendar year 1987, Representative Wright received a gift of reduced housing cost valued at $7,044 arising out of his use of an apartment/townhouse located at 1067 Roaring Springs Road, Fort Worth, Texas, and controlled by George Mallick, an individual the Committee has reason to believe had a direct interest in legislation.

Because this gift to Representative Wright was not reported

on his Financial Disclosure Statement for calendar year 1987 as required by House Rule XLIV, the Committee has reason to believe Representative Wright violated House Rule XLIV and House Rule XLIII, clause 4, the latter of which imposes a limit of $100 on gifts received from persons with a direct interest in legislation.

D. Calendar Year 1988

The record indicates that in calendar year 1988, Representative Wright received a gift of reduced housing cost valued at $1,740 arising out of his use of an apartment/townhouse located at 1067 Roaring Springs Road, Fort Worth, Texas, and controlled by George Mallick, an individual the Committee has reason to believe had a direct interest in legislation.

Because this gift was in excess of the limit on gifts from individuals with a direct interest in legislation, the Committee has reason to believe that Representative Wright violated House Rule XLIII, clause 4, which imposes a limit of $100 on gifts received from persons with a direct interest in legislation.

STATEMENT OF ALLEGED VIOLATION - COUNT FOUR

GIFT OF SALARY

The alleged violations described below arise as a result of Representative and Mrs. Wright's relationship with Mr. and Mrs. George Mallick, the two couples' joint ownership of an investment corporation known as Mallightco, Inc., and Mrs. Wright's purported employment association with the corporation. The record indicates that during the period 1981 through 1984, Mrs.

Wright received a total of $72,000 ($18,000 a year) in compensation as an employee of Mallightco, Inc. During this four-year period, there was no evidence either supporting or establishing that the money paid to Mrs. Wright was in return for identifiable services or work products that she provided to Mallightco, Inc. Accordingly, the Committee has reason to believe that the compensation paid to Mrs. Wright was a gift from Mr. George Mallick who was in charge of the corporation's activities including those of its employees. The Committee also has reason to believe that Mr. Mallick is an individual with a direct interest in legislation.

While the alleged gifts of salary involved were assertedly provided to Mrs. Wright, the benefits derived therefrom are imputed to the congressman because of the circumstance indicating that such gifts were not provided to Mrs. Wright wholly independent of her spousal relationship. Notably, Representative Wright and Mr. Mallick maintained a close social relationship for a period of years prior to the time Mrs. Wright was placed on Mallightco, Inc.'s payroll.

A. Calendar Year 1981

The record indicates that in calendar year 1981, Mrs. Wright received compensation in the amount of $18,000 from Mallightco, Inc. Because there is no evidence supporting or establishing that the money paid to Mrs. Wright was in return for identifiable services or work products that she provided to Mallightco, Inc., the $18,000 paid to her was, therefore, an apparent gift.

Moreover, because this gift was not reported on

Representative Wright's Financial Disclosure Statement for calendar year 1981 as required by House Rule XLIV, the Committee has reason to believe that Representative Wright violated House Rule XLIV and House Rule XLIII, clause 4, the latter of which imposes a limit of $100 on gifts received from persons having a direct interest in legislation.

B. Calendar Year 1982

The record indicates that in calendar year 1982, Mrs. Wright received compensation in the amount of $18,000 from Mallightco, Inc. Because there is no evidence supporting or establishing that the money paid to Mrs. Wright was in return for identifiable services or work products that she provided to Mallightco, Inc., the $18,000 paid to her was, therefore, an apparent gift.

Moreover, because this gift was not reported on Representative Wright's Financial Disclosure Statement for calendar year 1982 as required by House Rule XLIV, the Committee has reason to believe Representative Wright violated House Rule XLIV and House Rule XLIII, clause 4, the latter of which imposes a limit of $100 on gifts received from persons having a direct interest in legislation.

C. Calendar Year 1983

The record indicates that in calendar year 1983, Mrs. Wright received compensation in the amount of $18,000 from Mallightco, Inc. Because there is no evidence supporting or establishing that the money paid to Mrs. Wright was in return for identifiable services or work products that she provided to Mallightco, Inc., the $18,000 paid to her was, therefore, an apparent gift.

Moreover, because this gift was not reported on Representative Wright's Financial Disclosure Statement for calendar year 1983 as required by House Rule XLIV, the Committee has reason to believe that Representative Wright violated House Rule XLIV and House Rule XLIII, clause 4, the latter of which imposes a limit of $100 on gifts received from persons having a direct interest in legislation.

D. Calendar Year 1984

The record indicates that in calendar year 1984, Mrs. Wright received compensation in the amount of $18,000 from Mallightco, Inc. Because there is no evidence supporting or establishing that the money paid to Mrs. Wright was in return for identifiable services or work products that she provided to Mallightco, Inc., the $18,000 paid to her was, therefore, an apparent gift.

Moreover, because this gift was not reported on Representative Wright's Financial Disclosure Statement for calendar year 1984 as required by House Rule XLIV, the Committee has reason to believe that Representative Wright violated House Rule XLIV and House Rule XLIII, clause 4, the latter of which imposes a limit of $100 on gifts received from persons having a direct interest in legislation.

STATEMENT OF ALLEGED VIOLATION - COUNT FIVE

GIFTS OF USE OF AN AUTOMOBILE AND AUTOMOBILE MAINTENANCE AND OPERATION

The alleged violations described below arise as a result of Representative and Mrs. Wright's relationship with Mr. and Mrs.

George Mallick, the two couples' joint ownership of an investment corporation known as Mallightco, Inc., and Mrs. Wright's purported employment association with the corporation. The record indicates that during the period 1983 through 1988, Mrs. Wright was provided the free use of a 1979 Cadillac Seville, including maintenance and operation costs (e.g., insurance, registration and repair) of the vehicle, assertedly by virtue of her employment association with Mallightco, Inc. The record further indicates that Mrs. Wright's employment association with Mallightco, Inc. terminated on December 31, 1984, and that her use of the vehicle subsequent to 1984 could not be predicated upon an employment association with the corporation.

Finally, the record indicates that the automobile was located in Washington beginning in 1983 and that the records of Mallightco, Inc. began referring to the Cadillac as Mrs. Wright's car. There is no evidence indicating that Mrs. Wright's use of the vehicle in Washington, D. C., was necessary since the corporation's business headquarters were located in Fort Worth, Texas, and there is no record supporting or establishing that she performed any duties for Mallightco in the District of Columbia. Mrs. Wright's use of the vehicle was arranged by Mr. Mallick, an individual whom the Committee believes has a direct interest in legislation.

While the alleged gifts of the free use of an automobile and associated operation and maintenance costs were assertedly provided to Mrs. Wright, the benefits derived therefrom are imputed to the congressman because of the circumstance indicating

that such gifts were not provided to Mrs. Wright wholly independent of her spousal relationship. Notably, Representative Wright and Mr. Mallick maintained a close social relationship for a period of years prior to the time Mr. Mallick arranged the free use of the automobile and associated maintenance and operation costs.

A. Calendar Year 1983

The record indicates that in calendar year 1983, Mrs. Wright was provided free use of a 1979 Cadillac Seville which was an asset of Mallightco, Inc. and under the control of George Mallick, an individual the Committee has reason to believe had a direct interest in legislation. Because there is no evidence that Mrs. Wright required the use of this automobile during her employment association with Mallightco, Inc., the free use of the automobile was a gift to Representative Wright and his wife valued at $1,416.

Since the gift of automobile usage was not reported on Representative Wright's Financial Disclosure Statement for calendar year 1983 as required by House Rule XLIV, the Committee has reason to believe that Representative Wright violated House Rule XLIV and House Rule XLIII, clause 4, the latter of which imposes a limit of $100 on gifts received from persons having a direct interest in legislation.

In addition to the foregoing, the record indicates that in calendar year 1983, Representative Wright and his wife received a gift of $1,803.45 representing the costs to maintain and insure the 1979 Cadillac Seville provided by George Mallick, as

described above.

Because this gift of the costs of automobile maintenance and operation was not reported on Representative Wright's Financial Disclosure Statement for calendar year 1983 as required by House Rule XLIV, the Committee has reason to believe that Representative Wright violated House Rule XLIV and House Rule XLIII, clause 4, the latter of which imposes a limit of $100 on gifts received from persons having a direct interest in legislation.

B. Calendar Year 1984

The record indicates that in calendar year 1984, Mrs. Wright was provided free use of a 1979 Cadillac Seville which was an asset of Mallightco, Inc. and under the control of George Mallick, an individual the Committee has reason to believe had a direct interest in legislation. Because there is no evidence that Mrs. Wright required the use of this automobile during her employment association with Mallightco, Inc., the free use of the automobile was a gift to Representative Wright and his wife valued at $1,416.

Since the gift of automobile usage was not reported on Representative Wright's Financial Disclosure Statement for calendar year 1984 as required by House Rule XLIV, the Committee has reason to believe the Representative Wright violated House Rule XLIV and House Rule XLIII, clause 4, the latter of which imposes a limit of $100 on gifts received from persons having a direct interest in legislation.

In addition to the foregoing, the record indicates that in

calendar year 1984, Representative Wright and his wife received a gift of $1,648.58 representing the costs to maintain and insure the 1979 Cadillac Seville provided by George Mallick, as described above.

Because this gift of the costs of automobile maintenance and operation was not reported on Representative Wright's Financial Disclosure Statement for calendar year 1984 as required by House Rule XLIV, the Committee has reason to believe that Representative Wright violated House Rule XLIV and House Rule XLIII, clause 4, the latter of which imposes a limit of $100 on gifts received from persons having a direct interest in legislation.

C. Calendar Year 1985

The record indicates that in calendar year 1985, Mrs. Wright was provided free use of a 1979 Cadillac Seville which was an asset of Mallightco, Inc. and under the control of George Mallick, an individual the Committee has reason to believe had a direct interest in legislation. Because there is no evidence that Mrs. Wright required the use of this automobile after her employment association with that organization was terminated, the free use of the automobile was a gift to Representative Wright and his wife valued at $1,416.

Since the gift of automobile usage was not reported on Representative Wright's Financial Disclosure Statement for calendar year 1985 as required by House Rule XLIV, the Committee has reason to believe that Representative Wright violated House Rule XLIV and House Rule XLIII, clause 4, the latter of which

imposes a limit of $100 on gifts received from persons having a direct interest in legislation.

In addition to the foregoing, the record indicates that in calendar year 1985, Representative Wright and his wife received a gift of $1,477.80 representing the costs to maintain and insure the 1979 Cadillac Seville provided by George Mallick, as described above.

Because this gift of the costs of automobile maintenance and operation was not reported on Representative Wright's Financial Disclosure Statement for calendar year 1985 as required by House Rule XLIV, the Committee has reason to believe that Representative Wright violated House Rule XLIV and House Rule XLIII, clause 4, the latter of which imposes a limit of $100 on gifts received from persons having a direct interest in legislation.

D. Calendar Year 1986

The record indicates that in calendar year 1986, Mrs. Wright was provided free use of a 1979 Cadillac Seville which was an asset of Mallightco, Inc. and under the control of George Mallick, an individual the Committee has reason to believe had a direct interest in legislation. Because there is no evidence that Mrs. Wright required the use of this automobile after her employment association with that organization was terminated, the free use of the automobile was a gift to Representative Wright and his wife valued at $1,416.

Since the gift of automobile usage was not reported on Representative Wright's Financial Disclosure Statement for

calendar year 1986 as required by House Rule XLIV, the Committee has reason to believe that Representative Wright violated House Rule XLIV and House Rule XLIII, clause 4, the latter of which imposes a limit of $100 on gifts received from persons having a direct interest in legislation.

In addition to the foregoing, the record indicates that in calendar year 1986, Representative Wright and his wife received a gift of $1,510 representing the costs to insure the 1979 Cadillac Seville provided by George Mallick, as described above.

Because this gift of the cost of automobile insurance was not reported on Representative Wright's Financial Disclosure Statement for calendar year 1986 as required by House Rule XLIV, the Committee has reason to believe that Representative Wright violated House Rule XLIV and House Rule XLIII, clause 4, the latter of which imposes a limit of $100 on gifts received from persons having a direct interest in legislation.

E. Calendar Year 1987

The record indicates that in calendar year 1987, Mrs. Wright was provided free use of a 1979 Cadillac Seville which was an asset of Mallightco, Inc. and under the control of George Mallick, an individual the Committee has reason to believe had a direct interest in legislation. Because there is no evidence that Mrs. Wright required the use of this automobile after her employment association with that organization was terminated, the free use of the automobile was a gift to Representative Wright and his wife valued at $1,416.

Since the gift of automobile usage was not reported on

Representative Wright's Financial Disclosure Statement for calendar year 1987 as required by House Rule XLIV, the Committee has reason to believe that Representative Wright violated House Rule XLIV and House Rule XLIII, clause 4, the latter of which imposes a limit of $100 on gifts received from persons having a direct interest in legislation.

In addition to the foregoing, the record indicates that in calendar year 1987, Representative Wright and his wife received a gift of $2,849.02 representing the costs to maintain and insure the 1979 Cadillac Seville provided by George Mallick, as described above.

Because this gift of the costs of automobile maintenance and operation was not reported on Representative Wright's Financial Disclosure Statement for calendar year 1987 as required by House Rule XLIV, the Committee has reason to believe that Representative Wright violated House Rule XLIV and House Rule XLIII, clause 4, the latter of which imposes a limit of $100 on gifts received from persons having a direct interest in legislation.

F. Calendar Year 1988

The record indicates that in calendar year 1988, Mrs. Wright was provided free use of a 1979 Cadillac Seville which was an asset of Mallightco, Inc. and under the control of George Mallick, an individual the Committee has reason to believe had a direct interest in legislation. Because there is no evidence that Mrs. Wright required the use of this automobile after her employment association with that organization was terminated, the

free use of the automobile was a gift to Representative Wright and his wife valued at $1,416.

Since this gift of automobile usage was in excess of the limit on gifts from individuals with a direct interest in legislation, the Committee has reason to believe that Representative Wright violated House Rule XLIII, clause 4, which imposes a limit of $100 on gifts received from persons having a direct interest in legislation.

In addition to the foregoing, the record indicates that in calendar year 1988, Representative Wright and his wife received a gift of $1,606.80 representing the costs to maintain and insure the 1979 Cadillac Seville provided by George Mallick, as described above.

Because this gift of the costs of automobile maintenance and operation was in excess of the limit on gifts from individuals with a direct interest in legislation, the Committee has reason to believe that Representative Wright violated House Rule XLIII, clause 4, which imposes a limit of $100 on gifts received from persons having a direct interest in legislation.

Gift Of Loan Services From Marlene Mallick

Special Outside Counsel concluded that in calendar year 1980 Representative Wright received a gift of loan services from Mrs. George Mallick by virtue of Mrs. Mallick's having obtained funds from a bank ($150,000) which were in turn deposited with Mallightco, Inc. Mrs. Wright thereupon borrowed from Mallightco one-half of the funds ($75,000) which had been loaned by Mrs.

Mallick to Mallightco, Inc. In Counsel's view, the efforts undertaken by Mrs. Mallick constituted a gift of loan service to the Wrights in the form of Marlene Mallick's creditworthiness and her ability to obtain funds from the bank, half of which were later loaned to the Wrights.

The Committee decided that while a gift of loan service may well have occurred, the facts presented by Special Outside Counsel were not sufficient to support a Statement of Alleged Violation. This conclusion rested on two grounds. First, Mrs. Mallick's initial loan from the bank was at a 13-1/2% interest rate which was precisely the same rate of interest that the Wrights paid to Mallightco, Inc. when they borrowed the $75,000.

Second, the Committee rested its conclusion on the fact that there is no evidence or testimony in the record that the Wrights were not sufficiently creditworthy to obtain independently a loan similar to the one which they received from Mallightco, Inc. and, instead, used Mrs. Mallick's financial status as a means to obtain indirectly that which they could not have secured directly from a financial institution.

In light of the above, the Committee dismissed Special Outside Counsel's finding as not warranting further action.

Receipt of Gift Of Reduced Rate Of Interest

Special Outside Counsel reported that, in his view, for calendar years 1980-1987, Representative Wright received a gift of reduced interest on a loan arising out of the fact that his wife borrowed $75,000 from Mallightco, Inc. at an interest rate

of 13-1/2 percent notwithstanding that the underlying liability incurred by Mrs. George Mallick to obtain such sums for Mallightco, Inc., was not at all times at a similar rate of interest, some of which exceeded the 13-1/2 percent rate which Mrs. Wright was to have paid on her loan to Mallightco, Inc.

Special Outside Counsel also noted that, even though the note called for interest at 13-1/2 percent, interest appeared to be accrued on the loan at 10 percent. Counsel further noted that some of the outstanding interest accrued at the 10-percent rate was not paid at the time that Representative Wright's interest in Mallightco, Inc. was bought out.

The Committee did not concur with Special Outside Counsel. This determination was based upon the fact that while at some points in time Mrs. Wright's loan was below the rate of interest paid by Mrs. Mallick to the bank -- a fluctuating rate of interest was involved -- there were, in fact, other times during which the Wright loan exceeded the rate of interest of the Mallick loan. Accordingly, the evidence submitted by Counsel was not sufficient to support a Statement of Alleged Violation.

VI.

COMMITTEE ACTION TAKEN IN CONNECTION WITH ITEM NO. 6 OF THE RESOLUTION OF PRELIMINARY INQUIRY

The final item addressed in the Preliminary Inquiry concerns Representative Wright's:

> possible exercise of undue influence in dealing with officials of the Federal Home Loan Bank Board.

Based upon his examination of a number of instances in which

Representative Wright interacted directly, or through staff, with officials of the Federal Home Loan Bank Board, Special Outside Counsel concluded that there was reason to believe Representative Wright exercised undue influence in dealing with that agency. The Committee did not concur.

It is clear that under our constitutional form of government there is a constant tension between the legislative and executive branches regarding the desires of legislators on the one hand and the actions of agencies on the other in carrying out their respective responsibilities. The assertion that the exercise of undue influence can arise based upon a legislator's expressions of interest jeopardizes the ability of Members effectively to represent persons and organizations having concern with the activities of executive agencies.

Accordingly, while it may well be that Representative Wright was intemperate in his dealings with representatives of the Federal Home Loan Bank Board, the Committee is not persuaded that there is reason to believe that he exercised undue influence in dealing with that agency. In sum, such a finding cannot rest on pure inference or circumstance or, for that matter, on the technique and personality of the legislator, but, instead, must be based on probative evidence that a reprisal or threat to agency officials was made.

VII.

ADDITIONAL MATTERS

During the course of Counsel's investigation into the

circumstances surrounding the gifts received by Representative Wright from George Mallick, a question was raised regarding Mallightco, Inc.'s acquisition of a 4-percent interest in an oil well deal known as the North Sabine Lake Prospect, located in Orange County, Texas.

In sum, Counsel found that on May 10, 1988, Mallightco, Inc., with Michael Mallick acting on behalf of Mallightco, Inc., formally acquired a 4-percent interest in the well from Jaffe Engergy Corporation for $9,120. Also on May 10, 1988, Mallick entered into a transaction with Union Rheinische Petroleum, Inc. ("URP") in which URP loaned Mallightco, Inc.'s $440,000. The deal with URP was structured as follows: URP loaned Mallick $440,000 (of which $90,000 was reserved to pay Mallick's share of the drilling and completion costs); Mallick executed a Deed of Trust to URP conveying all rights to Mallick's proportionate interest in the oil and gas revenues from the Sabine Lake Prospect until URP was repaid all of its $440,000; once URP recovered its money, Mallick would assign to URP 2.5 percent of the working interest in the well, with Mallick retaining a 1.5-percent working interest; and if the oil and gas revenues were inadequate to repay the loan, URP's sole recourse would be to Mallick's interest in the well. What this meant was that Mallightco received $350,000 cash, owed Jaffe nothing for drilling and completion expenses, and would receive 1.5 percent of the working interest of the well after URP received $440,000 in oil and gas revenues, but Mallightco would not be liable for repayment of the loan.

Soon after Mallightco executed this agreement with URP, it tendered an offer to the Trustee of the James C. Wright, Jr. Blind Trust (the "Blind Trust"), to repurchase all the trust's shares of Mallightco, Inc. stock for $350,000. This sale was consummated on June 9, 1988. Michael Mallick submitted Mallightco's unaudited balance sheet dated May 16, 1988. The balance sheet reported Mallightco's total assets to be $1,248,632, and its total liabilities to be $545,529. Mallightco thus reported a net worth of $703,102. A majority of the company's assets was its Sabine Lake investment, valued at $650,000. Mallightco, Inc. paid the Blind Trust two checks totalling $230,000 and a promissory note in the amount of $120,000. The Trust endorsed one check over to Mallightco, Inc. for $81,821.70, representing the outstanding balance of the Trust's indebtedness to Mallightco including part of the interest accrued, and tendered the Trust's stock certificates back to Mallightco.

Against the backdrop of these business transactions between Jaffe Energy Corporation, Michael Mallick, Mallightco, Inc., and Representative Wright's Blind Trust, all of which occurred during the period January through June, 1988, are the salient facts regarding drilling activities on the North Sabine Lake well.

Drilling on the Sabine Lake well began March 4, 1988. The well reached total depth of 11,560 on April 2, 1988, at a cost of $1,256,151. The well operator, Brammer Engineering Co., ran an electric log on that date to determine the potential productivity of the well. The log revealed the probable presence of oil and

gas in a seven foot band of Hackberry sand at a depth of 11,272 - 11,280 feet. Based upon these log indications, the owners of the well (primarily Jaffe Energy, Inc. and Goodrich Oil Co.) decided to commence completion operations.

From April 3, 1988, to April 22, 1988, Brammer Engineering worked to install the necessary equipment on the well to begin testing and production. The initial tests on the well on April 23, 1988, indicated flows of oil and gas in commercially productive amounts. Over the first 30 hours, a maximum average flow rate of 1,000 MCF/D and 75 bbl/D were indicated. The well tested at the maximum rate of 1,600 MCF/D and 125 bbl/D. However, over the next few days, testing revealed alarming declines in oil and gas production and well pressures were occurring. The well clearly had tapped into a reservoir containing some oil and gas, but because the well pressure readings steadily declined during all tests, it was also clear that the well was not a gusher.

Brammer Engineering undertook numerous attempts to stimulate production in the well. For instance, Brammer injected acid, xylene, ammonium chloride, and other chemicals into the well; attempted to unclog the well perforations, believing the perforations had become clogged with fine sand; and injected nitrogen into the well. All of these efforts had roughly the same result -- temporary stimulation of production, but the wellhead pressures inexorably dropped as time progressed. By May 4, 1988, the well had declined to a point that it was uneconomical to test the negligible quantities of gas and no

oil. By May 10, 1988, Brammer had spent nearly a million dollars trying to complete the well.

Despite these disheartening results from the well, on May 10, 1988, URP nevertheless acquired Michael Mallick's 4 percent interest in the venture for $440,000 in the manner described above.

Records received from Brammer Engineering reveal that throughout the month of May 1988, Brammer kept trying to stimulate pressure in the well and to turn the well into a profitable producer. However, all of Brammer's efforts were unsuccessful. Brammer shut-in the well on June 9, 1988, having spent $2,890,000 to drill and complete the well; Brammer suspended all operations for almost two months.

On August 3, 1988, Brammer began operations to drill a sidetrack well. The sidetrack well was drilled from August 3 to September 20, 1988 and cost nearly $1.1 million to drill. No oil or gas was discovered in the sidetrack well. Brammer Engineering promptly decided to plug the original well and the sidetrack well and to abandon the site. Plugging operations were concluded on September 24, 1988; the drilling derrick and barge were removed; and the site was abandoned on September 25, 1988.

The value of an oil or gas well at any particular time can be calculated in several ways. For instance, a petroleum expert who reviewed relevant well records for Special Outside Counsel, uses a transaction value method. The expert valued Mallick's interest in the well based upon what a reasonable oil investor might have paid for the interest on May 10, 1988. The expert

indicated that a reasonably generous investor might have offered to reimburse Mallick for his actual costs up to that date and to assume all of Mallick's future obligations and to assign Mallick a small override if the well became successful in return for an assignment of the revenues generated by Mallick's 4 percent interest in the well. Since by May 10, 1988, Brammer had spent approximately $2.25 million for drilling and to try to complete the well, it would have cost an investor $98,840 (including $9,120 leasehold cost). In addition, since Brammer spent another $646,000 after May 10, 1988, trying to complete the well plus $1,100,000 drilling the sidetrack, an investor would have paid another $69,733 (for a total of $168,571) for Mallick's 4 percent interest.

However, the expert stated that a more likely trade proposal scenario is for the buyer not to reimburse Mallick his sunk costs, but to agree to pay only future costs. Under this scenario, a buyer would have paid only $69,733 for Mallick's 4 percent interest in the Sabine Lake well.

Regardless of the method used to value the well on May 10, 1988, it seems clear that Michael Mallick's 4 percent interest was worth a fraction of the $440,000 paid by URP. While the "loan" from URP may well have been a gift to Michael Mallick or Mallightco, Inc., Counsel could not conclude, based upon available evidence, that any House Rules were violated. During the entire time Mallightco, Inc., was involved in Sabine Lake, Representative Wright's ownership of his Mallightco, Inc., stock was in a Blind Trust. Thus, Special Outside Counsel could not

say whether Representative Wright knew of the Sabine Lake transaction, the URP loan, or of the great disparity between the loan price and the value of the fractional interest in the well; nor whether URP had a direct interest in legislation. Accordingly, Special Outside Counsel recommended further investigation into Mallightco's loan transaction with URP.

The Committee agreed with Special Outside Counsel that important questions remain to be resolved regarding URP's transaction with Mallightco, Inc., as well as the later transaction with Representative Wright's Blind Trust. Available evidence suggests that far too much money was paid by URP to acquire its interest in the North Sabine Lake Prospect given that the well records indicate an unsuccessful venture. Accordingly, the Committee has issued a series of subpoenas to the relevant parties for the purpose of obtaining the information necessary to resolve remaining questions. The Committee will take such additional action regarding Mallightco, Inc.'s purchase and sale of its interest in the North Sabine Lake Prospect, if the facts indicate there is reason to believe violations occurred.

Conclusion

The foregoing discussion and explanation of the Committee's actions taken in connection with the Preliminary Inquiry into the assertions raised against Representative Wright have been presented pursuant to the Committee's well-established policy to make full public disclosure of the results of its investigative activities. While, as discussed above, certain additional work will continue, it is the Committee's view that the foregoing

Statement will be sufficient to explain why no further action has been taken in connection with certain areas of the June 9, 1988, Preliminary Inquiry. This Statement also explains why a five-count Statement of Alleged Violation covering 69 separate violations has been issued to Representative Wright regarding those matters in which the Committee has determined that there is a reason to believe such violations have occurred. Beyond this Statement, the Committee will have no further disclosures of information or documents in this matter except in accordance with the Committee's Rules of Procedure.

The foregoing explanatory Statement and Statement of Alleged Violation were agreed to by the Committee on April 13, 1989, by a vote of 12 ayes and 0 nays.